

EXHIBIT “M”

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EDWARD CARTER, FRANK FIORILLO,)
KEVIN LAMM, JOSEPH NOFI, and)
THOMAS SNYDER,) CV 07 1215

Plaintiffs,)

vs.)

INCORPORATED VILLAGE OF OCEAN)
BEACH; MAYOR JOSEPH C. LOEFFLER,)
JR., individually and in his)
official capacity; former mayor)
NATALIE K. ROGERS, individually)
and in her official capacity,)
OCEAN BEACH POLICE DEPARTMENT;)
ACTING DEPUTY POLICE CHIEF)
GEORGE B. HESSE, individually)
and in his official capacity;)
SUFFOLK COUNTY; SUFFOLK COUNTY)
POLICE DEPARTMENT, SUFFOLK)
COUNTY DEPARTMENT OF CIVIL)
SERVICE; and ALISON SANCHEZ,)
individually and in her)
official capacity,)

Defendants.)

-----)
VIDEOTAPED DEPOSITION OF
JOSEPH C. LOEFFLER, JR.
New York, New York
Wednesday, February 25, 2009

Reported by:
KRISTIN KOCH, RPR, RMR, CRR, CLR
JOB NO. 20823

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February 25, 2009
10:04 a.m.

Deposition of JOSEPH C. LOEFFLER,
JR., held at the offices of Rivkin Radler
LLP, 926 RexCorp Plaza, Uniondale,
New York, before Kristin Koch, a Registered
Professional Reporter, Registered Merit
Reporter, Certified Realtime Reporter,
Certified Livenote Reporter and Notary
Public of the State of New York.

TSG Reporting - Worldwide 877-702-9580

A P P E A R A N C E S:

THOMPSON WIGDOR & GILLY LLP
Attorneys for Plaintiffs
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New York, New York 10003
BY: ARIEL Y. GRAFF, ESQ.

BEE READY FISHBEIN HATTER & DONOVAN, LLP
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Ocean Beach
170 Old Country Road
Mineola, New York 11501
BY: JOSHUA JEMAL, ESQ.

RIVKIN RADLER LLP
Attorneys for Incorporated Village of
Ocean Beach, Joseph C. Loeffler Jr.,
Natalie K. Rogers and Ocean Beach Police
Department
926 RexCorp Plaza
Uniondale, New York 11556-0926
BY: KENNETH A. NOVIKOFF, ESQ.
MICHAEL P. WELCH, ESQ.

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A P P E A R A N C E S: (Continued)

MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.
Attorneys for George B. Hesse
530 Saw Mill River Road
Elmsford, New York 10523
BY: KEVIN W. CONNOLLY, ESQ.

ALSO PRESENT:

SILVIO FACCHIN, Legal Video Specialist
FRANK FIORILLO
THOMAS SNYDER
JOSEPH NOFI
KEVIN LAMM

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IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing and
sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be sworn to
and signed before any officer authorized
to administer an oath, with the same
force and effect as if signed and sworn
to before the Court.

- oOo -

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1
2 (Loeffler Exhibit 1, Confidential 09:50:33
3 Wage/Salary History, marked for 09:50:33
4 identification.) 09:57:23
5 (Loeffler Exhibit 2, Ocean Beach 09:57:23
6 Defendants' Response to Plaintiffs' First 09:57:23
7 Set of Interrogatories, marked for 09:57:23
8 identification.) 09:57:24
9 * * * 10:03:38
10 THE VIDEOGRAPHER: This is the tape 10:03:38
11 labeled number 1 of the videotaped 10:03:40
12 deposition of Mayor Joseph Loeffler in the 10:03:42
13 matter of Edward Carter, et al., versus 10:03:46
14 Incorporated Village of Ocean Beach, et al. 10:03:48
15 We are now going on the record. The 10:03:51
16 time is 10:04 a.m. Counsel will state 10:03:53
17 their appearances for the record. 10:03:56
18 MR. GRAFF: Ari Graff from the law 10:03:58
19 firm of Thompson Wigdor & Gilly 10:03:59
20 representing the plaintiffs in this action, 10:04:01
21 three of whom are present with me here 10:04:03
22 today; Frank Fiorillo, Tom Snyder and Joe 10:04:05
23 Nofi. 10:04:09
24 MR. NOVIKOFF: And just for the 10:04:11
25 record, let the record reflect that 10:04:12
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1
2 Mr. Fiorillo is not wearing a suit. 10:04:14
3 For all of the Village defendants 10:04:16
4 except Mr. Hesse, Ken Novikoff and Michael 10:04:18
5 Welch from the law firm of Rivkin Radler 10:04:22
6 LLP, and Joshua Jemal, general counsel to 10:04:25
7 the Village from the law firm of -- 10:04:28
8 MR. JEMAL: Bee Ready Fishbein 10:04:28
9 Hatter & Donovan. 10:04:32
10 MR. CONNOLLY: Kevin W. Connolly of 10:04:32
11 Marks, O'Neill, O'Brien & Courtney for the 10:04:34
12 defendant George Hesse. 10:04:36
13 THE VIDEOGRAPHER: Will the court 10:04:37
14 reporter please swear in the witness. 10:04:38
15 JOSEPH C. LOEFFLER, JR., 10:04:46
16 called as a witness, having been duly sworn
17 by a Notary Public, was examined and
18 testified as follows:
19 MR. GRAFF: This deposition will be 10:04:47
20 governed by the Federal Rules of Civil 10:04:50
21 Procedure and local civil rules for the 10:04:53
22 Eastern District of New York. 10:04:56
23 MR. NOVIKOFF: Same stip as in 10:04:56
24 every other deposition that we have had? 10:04:58
25 MR. GRAFF: Sure. 10:04:59
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1 Loeffler
2 MR. NOVIKOFF: Okay. 10:05:00
3 EXAMINATION BY 10:05:00
4 MR. GRAFF: 10:05:00
5 Q. Good morning, Mayor Loeffler. As 10:05:00
6 you heard a moment ago, my name is Ari Graff, a 10:05:02
7 lawyer representing the plaintiffs. I am going 10:05:05
8 to be asking you a series of questions today. 10:05:07
9 Do you understand that you are 10:05:11
10 testifying under oath in this deposition and 10:05:12
11 are legally obligated to tell the truth? 10:05:15
12 MR. NOVIKOFF: You can move on. The 10:05:17
13 witness is well aware what his obligations 10:05:19
14 are. He just swore under oath. 10:05:21
15 MR. GRAFF: Okay. The witness can 10:05:22
16 indicate that in response to my question. 10:05:24
17 MR. NOVIKOFF: Move on. He is not 10:05:25
18 going to answer that question. 10:05:26
19 MR. GRAFF: You are going to 10:05:27
20 instruct him not to answer? 10:05:28
21 MR. NOVIKOFF: What's the point, 10:05:29
22 Ari? He swore under oath. Ask him does he 10:05:30
23 understand what the oath means. 10:05:33
24 Q. Do you understand that the oath that 10:05:33
25 you took at the beginning of the deposition a 10:05:35
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1 Loeffler
2 moment ago indicated that you are obligated to 10:05:38
3 tell the truth during this deposition? 10:05:41
4 A. Yes, I do. 10:05:43
5 Q. Thank you. Have you ever testified 10:05:43
6 under oath before? 10:05:45
7 A. Yes, I have. 10:05:47
8 Q. And how many times have you 10:05:47
9 testified under oath before? 10:05:51
10 A. Between 50 and 100 times. 10:05:53
11 Q. In any of those cases when you 10:05:58
12 testified under oath, were you a party to the 10:06:01
13 proceeding? 10:06:03
14 A. Yes. 10:06:03
15 Q. And what was the most recent time 10:06:14
16 that you testified under oath prior to today? 10:06:18
17 A. About four years ago. 10:06:20
18 Q. And in what context did you give 10:06:23
19 sworn testimony four years ago? 10:06:24
20 A. It was in a federal trial in Central 10:06:26
21 Islip. 10:06:30
22 Q. And what was the nature of your 10:06:30
23 testimony in that case? 10:06:34
24 A. It was referencing a gun arrest that 10:06:35
25 I had made while I was employed by the Suffolk 10:06:38
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1 Loeffler
2 County Police Department that was being 10:06:41
3 prosecuted in the federal court. 10:06:42
4 **Q. Other than testimony that you have 10:06:44**
5 **given in the context of your official police 10:06:46**
6 **duties, have you ever testified under oath in 10:06:49**
7 **any other context? 10:06:51**
8 A. Yes. 10:06:52
9 **Q. And in what context would that be? 10:06:52**
10 A. I had an EBT in an automobile 10:06:55
11 accident. 10:06:58
12 **Q. Other than the EBT, are there any 10:06:59**
13 **other times that you testified not in the 10:07:02**
14 **context of your official law enforcement 10:07:05**
15 **duties? 10:07:09**
16 A. Yes, at my divorce proceedings. 10:07:09
17 **Q. Other than that, are there any 10:07:13**
18 **others? 10:07:15**
19 A. No. 10:07:15
20 **Q. Have you ever been a plaintiff in 10:07:16**
21 **any lawsuit? 10:07:19**
22 A. No. 10:07:22
23 **Q. Have you ever been a defendant in 10:07:24**
24 **any lawsuit other than this lawsuit? 10:07:25**
25 A. Yes. 10:07:28
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1 Loeffler
2 dismissed. 10:08:27
3 **Q. Other than that case, have there -- 10:08:28**
4 **do you remember the name of the plaintiff in 10:08:30**
5 **that case? 10:08:32**
6 A. No, I do not. 10:08:32
7 **Q. Other than that case, have there 10:08:33**
8 **been any other cases where you have testified 10:08:35**
9 **in your official capacity as a named defendant? 10:08:37**
10 A. No. 10:08:39
11 **Q. Other than this case, have there 10:08:39**
12 **been any cases in which you have testified in 10:08:41**
13 **your individual capacity as a named defendant? 10:08:43**
14 A. No. 10:08:45
15 **Q. I know you have gone through this 10:08:46**
16 **many times before, but just to quickly go over 10:08:53**
17 **some of the protocols that we usually follow, 10:08:56**
18 **as you can see, there is a court reporter 10:08:58**
19 **here -- 10:09:00**
20 MR. NOVIKOFF: What makes you think 10:09:00
21 he has gone over this many times before? 10:09:01
22 MR. GRAFF: He has given testimony 10:09:03
23 before in the context of -- 10:09:04
24 MR. NOVIKOFF: So what makes you 10:09:06
25 think he has gone over whatever protocols? 10:09:07
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1 Loeffler
2 **Q. And in what cases have you been a 10:07:31**
3 **defendant? 10:07:33**
4 MR. NOVIKOFF: In his official 10:07:34
5 capacity or individual capacity? 10:07:36
6 MR. GRAFF: In either. 10:07:37
7 MR. NOVIKOFF: Why don't you break 10:07:38
8 it down, official and then individual. 10:07:39
9 **Q. We can break it down. In what cases 10:07:40**
10 **have you testified as a named defendant in your 10:07:44**
11 **official capacity? 10:07:46**
12 A. I testified in federal court on a 10:07:48
13 case that I handled. 10:07:55
14 **Q. And what was the nature of that 10:07:57**
15 **case? 10:07:58**
16 A. That case was an allegation by a 10:07:59
17 defendant reference treatment that he received 10:08:04
18 while in custody. 10:08:08
19 **Q. And what was the official capacity 10:08:11**
20 **or position that you held at that time? 10:08:13**
21 A. I was a detective with the Suffolk 10:08:16
22 County Police Department. 10:08:18
23 **Q. And what was the nature of the 10:08:19**
24 **treatment that was the basis? 10:08:23**
25 A. We never got that far. The case was 10:08:25
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1 Loeffler
2 Why don't you just ask questions. 10:09:07
3 MR. GRAFF: Okay. 10:09:10
4 **Q. I will note that if you don't hear a 10:09:17**
5 **question or don't understand a question or a 10:09:20**
6 **word, please feel free to let me know and I'll 10:09:22**
7 **rephrase or repeat the question so that you can 10:09:24**
8 **understand it. 10:09:26**
9 **Also, if you would like to take a 10:09:27**
10 **break at any time, please just let me know and 10:09:29**
11 **we can do that, but I would usually ask that if 10:09:31**
12 **there is a question pending, you first answer 10:09:34**
13 **the question before the break. 10:09:35**
14 **Are you presently taking any 10:09:39**
15 **medications that could affect your ability to 10:09:42**
16 **testify fully and completely today? 10:09:44**
17 A. No. 10:09:47
18 **Q. Are you presently under a doctor's 10:09:48**
19 **care for any condition that could affect your 10:09:51**
20 **ability to testify fully and completely today? 10:09:53**
21 A. No. 10:09:55
22 **Q. Is there any reason you can think of 10:09:55**
23 **why you wouldn't be able to answer my questions 10:09:59**
24 **truthfully, fully and completely today? 10:10:01**
25 MR. NOVIKOFF: Objection. I think 10:10:03
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<p style="text-align: right;">Page 14</p> <p>1 Loeffler</p> <p>2 you should ask the question about 10:10:05</p> <p>3 truthfully, because if the question 10:10:07</p> <p>4 encompasses "fully and completely," that 10:10:10</p> <p>5 subsumes that your questions are clear, so 10:10:12</p> <p>6 if you ask him if there is anything he can 10:10:13</p> <p>7 think that of would prevent him from 10:10:16</p> <p>8 answering honestly, that's a legitimate 10:10:18</p> <p>9 question and he can answer that question. 10:10:20</p> <p>10 MR. GRAFF: Okay. 10:10:21</p> <p>11 Q. I will note again that to the extent 10:10:21</p> <p>12 that you are unclear about a question I am 10:10:22</p> <p>13 asking, please tell me and I can repeat or 10:10:26</p> <p>14 rephrase the question. 10:10:28</p> <p>15 MR. NOVIKOFF: Counsel, I'm here to 10:10:29</p> <p>16 object to the form of the question. That's 10:10:32</p> <p>17 my role. Are you suggesting by that 10:10:34</p> <p>18 instruction to the witness that he is 10:10:37</p> <p>19 somehow waiving his rights under the 10:10:38</p> <p>20 Federal Rules of Civil Procedure to review 10:10:41</p> <p>21 his transcript at the conclusion and make 10:10:42</p> <p>22 whatever changes he wants with any 10:10:45</p> <p>23 explanation that he wants? 10:10:46</p> <p>24 MR. GRAFF: I am suggesting only 10:10:47</p> <p>25 what I stated to the witness. This 10:10:48</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 15</p> <p>1 Loeffler</p> <p>2 deposition is governed by the Federal Rules 10:10:50</p> <p>3 of Civil Procedure. 10:10:52</p> <p>4 MR. NOVIKOFF: I just want to make 10:10:52</p> <p>5 that clear. 10:10:55</p> <p>6 MR. GRAFF: Mr. Novikoff, are you 10:10:56</p> <p>7 requesting the opportunity to review the 10:10:58</p> <p>8 transcript? 10:10:59</p> <p>9 MR. NOVIKOFF: I think -- if you 10:11:00</p> <p>10 want to introduce it at trial, if this ever 10:11:01</p> <p>11 gets to trial, you better show him the 10:11:03</p> <p>12 transcript. 10:11:05</p> <p>13 MR. GRAFF: Okay. Pursuant to the 10:11:06</p> <p>14 Federal Rules of Civil Procedure you have 10:11:08</p> <p>15 the right to request that opportunity 10:11:09</p> <p>16 before the completion of this deposition, 10:11:11</p> <p>17 as you now have. 10:11:13</p> <p>18 Q. Is there any reason, Mayor Loeffler, 10:11:14</p> <p>19 that you can think of why you wouldn't be able 10:11:16</p> <p>20 to answer my questions truthfully today? 10:11:18</p> <p>21 A. No. 10:11:20</p> <p>22 Q. Is there any reason you can think of 10:11:21</p> <p>23 why you wouldn't be able to answer my questions 10:11:23</p> <p>24 fully and completely to the best of your 10:11:25</p> <p>25 understanding and recollection? 10:11:27</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
<p style="text-align: right;">Page 16</p> <p>1 Loeffler</p> <p>2 A. No. 10:11:28</p> <p>3 Q. Who have you spoken with about this 10:11:29</p> <p>4 lawsuit other than your counsel? 10:11:39</p> <p>5 A. My wife, my family, members of the 10:11:41</p> <p>6 Village staff, news reporters, and some members 10:11:47</p> <p>7 of the general public. 10:12:02</p> <p>8 Q. Are you finished with that answer? 10:12:08</p> <p>9 A. Yes, I am. 10:12:10</p> <p>10 Q. And what is your wife's name? 10:12:11</p> <p>11 A. Conde, C-O-N-D-E. 10:12:13</p> <p>12 Q. And how long have you been married 10:12:19</p> <p>13 to Conde? 10:12:20</p> <p>14 A. Eleven years. 10:12:21</p> <p>15 Q. And prior to your marriage to Conde, 10:12:29</p> <p>16 have you been married to anyone else? 10:12:32</p> <p>17 A. Yes, I was. 10:12:33</p> <p>18 Q. And who else have you been married 10:12:34</p> <p>19 to? 10:12:36</p> <p>20 A. Donna. 10:12:36</p> <p>21 Q. And what have you discussed -- were 10:12:41</p> <p>22 you referring to your current wife Conde as -- 10:12:43</p> <p>23 A. Yes. 10:12:46</p> <p>24 Q. What have you discussed with Conde 10:12:46</p> <p>25 about this lawsuit? 10:12:49</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 17</p> <p>1 Loeffler</p> <p>2 MR. NOVIKOFF: Objection. Spousal 10:12:49</p> <p>3 privilege. You have to lay a much better 10:12:51</p> <p>4 foundation to get him to answer about 10:12:54</p> <p>5 communications he has with his wife about a 10:12:55</p> <p>6 lawsuit in which he is named a party of. 10:12:59</p> <p>7 MR. GRAFF: We can come back to 10:13:01</p> <p>8 that. 10:13:02</p> <p>9 Q. Which family members did you intend 10:13:02</p> <p>10 to refer to as having -- as people who you have 10:13:04</p> <p>11 discussed this lawsuit with? 10:13:09</p> <p>12 A. My children, my brother. 10:13:10</p> <p>13 Q. And -- 10:13:16</p> <p>14 A. My mother. That's about it. 10:13:17</p> <p>15 Q. Specifically which children? 10:13:21</p> <p>16 A. I have four children; Suzanne, 10:13:23</p> <p>17 Christine, Michael and Jillian. 10:13:26</p> <p>18 Q. And have you spoken with all four of 10:13:30</p> <p>19 your children about this lawsuit? 10:13:34</p> <p>20 A. Yes. 10:13:35</p> <p>21 Q. And what have you discussed in 10:13:36</p> <p>22 substance with your children concerning this 10:13:39</p> <p>23 lawsuit? 10:13:41</p> <p>24 A. That I thought this -- 10:13:41</p> <p>25 MR. NOVIKOFF: Go ahead. 10:13:43</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

<p style="text-align: right;">Page 18</p> <p>1 Loeffler</p> <p>2 A. That I thought this was a frivolous 10:13:44</p> <p>3 lawsuit and a waste of my time and that I was 10:13:45</p> <p>4 very annoyed that I had to respond to these 10:13:48</p> <p>5 questions and that it was taking a lot of my 10:13:51</p> <p>6 time away from my family, this lawsuit has, and 10:13:55</p> <p>7 I'm annoyed at that. 10:13:59</p> <p>8 Q. Other than your annoyance at the 10:14:00</p> <p>9 lawsuit, is there anything else that you can 10:14:04</p> <p>10 recall that you have discussed in substance 10:14:05</p> <p>11 with any of your children? 10:14:08</p> <p>12 MR. NOVIKOFF: Objection to the 10:14:08</p> <p>13 characterization of his testimony. I think 10:14:09</p> <p>14 he said more than he was merely annoyed 10:14:11</p> <p>15 with the lawsuit. 10:14:13</p> <p>16 Q. Other than what you referred to in 10:14:14</p> <p>17 your last response, have you discussed anything 10:14:16</p> <p>18 else? 10:14:17</p> <p>19 A. That would be the sum and substance 10:14:17</p> <p>20 of what I said. 10:14:19</p> <p>21 Q. And can you recall any specific 10:14:20</p> <p>22 conversations with any of your children on that 10:14:21</p> <p>23 subject? 10:14:23</p> <p>24 A. No, I can't. 10:14:24</p> <p>25 MR. NOVIKOFF: What subject? The 10:14:25</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 19</p> <p>1 Loeffler</p> <p>2 lawsuit, his annoyance, the fact that it's 10:14:27</p> <p>3 frivolous? What? You gotta be precise, 10:14:29</p> <p>4 Ari. 10:14:32</p> <p>5 Q. Precise -- what you had testified to 10:14:34</p> <p>6 before, including your annoyance. 10:14:36</p> <p>7 MR. NOVIKOFF: Objection to the 10:14:38</p> <p>8 form. 10:14:38</p> <p>9 A. I'm confused. 10:14:39</p> <p>10 MR. NOVIKOFF: Yes, if you want to 10:14:40</p> <p>11 break it down, break it down. 10:14:42</p> <p>12 Q. Can you recall when the last time 10:14:43</p> <p>13 you discussed this lawsuit with Suzanne, your 10:14:44</p> <p>14 daughter, was? 10:14:48</p> <p>15 A. Within the last month. I discussed 10:14:48</p> <p>16 it with all my children in the last month. 10:14:51</p> <p>17 MR. NOVIKOFF: Just answer the 10:14:53</p> <p>18 question. 10:14:53</p> <p>19 Q. What members of the Village staff 10:14:54</p> <p>20 have you discussed this lawsuit with? 10:14:55</p> <p>21 MR. NOVIKOFF: So we are off his 10:14:58</p> <p>22 children now? 10:14:59</p> <p>23 MR. GRAFF: I am asking about the 10:15:00</p> <p>24 Village staff right now. 10:15:01</p> <p>25 MR. NOVIKOFF: Okay, good. 10:15:02</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
<p style="text-align: right;">Page 20</p> <p>1 Loeffler</p> <p>2 A. The members of the board. 10:15:04</p> <p>3 Q. And who are the members of the board 10:15:10</p> <p>4 that you are referring to? 10:15:11</p> <p>5 A. It would be William Wingate, James 10:15:12</p> <p>6 Mallott, Kenneth Klein and Steven Einig. 10:15:18</p> <p>7 Q. And what have you discussed with 10:15:32</p> <p>8 William Wingate concerning this lawsuit? 10:15:34</p> <p>9 MR. NOVIKOFF: Now, if the witness 10:15:36</p> <p>10 has addressed anything about this lawsuit 10:15:41</p> <p>11 with a trustee member outside the presence 10:15:45</p> <p>12 of counsel, I will permit him to answer. 10:15:48</p> <p>13 If the witness has discussed with a trustee 10:15:50</p> <p>14 in the presence of counsel, but not for the 10:15:53</p> <p>15 purpose of seeking legal advice, I will 10:15:55</p> <p>16 allow the witness to answer. If he has in 10:15:58</p> <p>17 a meeting with a trustee member with 10:16:01</p> <p>18 counsel present seeking legal advice from 10:16:04</p> <p>19 counsel, that I will object to and assert 10:16:07</p> <p>20 privilege. 10:16:10</p> <p>21 MR. GRAFF: I understand. 10:16:10</p> <p>22 MR. NOVIKOFF: Okay. 10:16:11</p> <p>23 A. This matter has been discussed in -- 10:16:11</p> <p>24 at meetings, Village board meetings, and during 10:16:16</p> <p>25 executive session with counsel present. 10:16:19</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 21</p> <p>1 Loeffler</p> <p>2 MR. NOVIKOFF: See, now, if it's -- 10:16:21</p> <p>3 now, just for clarity, when you say board 10:16:23</p> <p>4 meetings, it's open to the general public? 10:16:25</p> <p>5 THE WITNESS: Yes. 10:16:26</p> <p>6 MR. NOVIKOFF: Okay. So if it's 10:16:27</p> <p>7 open to the general public, you have to 10:16:28</p> <p>8 answer. If it was an executive session for 10:16:30</p> <p>9 the purpose of seeking legal advice and 10:16:33</p> <p>10 counsel, then I'm going to instruct you not 10:16:35</p> <p>11 to answer. Do you understand at least my 10:16:38</p> <p>12 distinction? 10:16:41</p> <p>13 THE WITNESS: Yes, I do. 10:16:42</p> <p>14 Q. Okay. And keeping Mr. Novikoff's 10:16:43</p> <p>15 distinction in mind, what have you discussed 10:16:45</p> <p>16 with William Wingate concerning this lawsuit? 10:16:48</p> <p>17 A. All the discussions I've had with 10:16:49</p> <p>18 the Board of Trustees has been during executive 10:16:51</p> <p>19 session. 10:16:53</p> <p>20 Q. So you have never had any 10:16:54</p> <p>21 discussions with William Wingate individually 10:16:55</p> <p>22 concerning this lawsuit? 10:16:58</p> <p>23 A. No sum and substance about this 10:16:58</p> <p>24 lawsuit. The only thing I have discussed is 10:17:00</p> <p>25 the fact that I'd be responding to this EBT 10:17:02</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

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1 Loeffler
2 today. 10:17:06
3 **Q. And prior to -- strike that. 10:17:07**
4 **How long have you known William 10:17:17**
5 **Wingate? 10:17:18**
6 A. 25 years. 10:17:19
7 **Q. And what is the nature of your 10:17:21**
8 **relationship with Mr. Wingate? 10:17:24**
9 A. He is a friend. 10:17:27
10 **Q. And in what context did you first 10:17:37**
11 **meet Mr. Wingate? 10:17:39**
12 A. I bought a piece of property from 10:17:40
13 him, land. 10:17:45
14 **Q. And is that land located in Ocean 10:17:48**
15 **Beach? 10:17:50**
16 A. Yes, it is. 10:17:50
17 **Q. And in what year did you purchase 10:17:51**
18 **that land? 10:17:53**
19 A. 1985. 1984. 10:17:54
20 **Q. Have you -- what is the address of 10:17:59**
21 **that property that you are referring to? 10:18:02**
22 A. 68 Ocean Road, Ocean Beach. 10:18:04
23 **Q. Other than that purchase of land 10:18:16**
24 **from Mr. Wingate, have you been involved in any 10:18:20**
25 **other real estate transactions in which he 10:18:22**
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1 Loeffler
2 **played a part that you are aware of? 10:18:24**
3 A. No. 10:18:26
4 **Q. Has Mr. Wingate ever loaned you any 10:18:27**
5 **money in connection with any real estate 10:18:29**
6 **transactions? 10:18:31**
7 A. Yes. 10:18:32
8 **Q. And on how many occasions has 10:18:34**
9 **Mr. Wingate loaned you money in connection with 10:18:37**
10 **a real estate transaction? 10:18:39**
11 A. Two. 10:18:41
12 **Q. And what was the more recent of 10:18:42**
13 **those two occasions? When did that take place? 10:18:47**
14 A. Fifteen years ago. 10:18:49
15 **Q. And how much money did he loan you 10:18:50**
16 **at that time? 10:18:52**
17 A. I don't know. I don't remember 10:18:53
18 exactly how much. 10:18:54
19 **Q. And what real estate was being 10:18:55**
20 **purchased at that time? 10:18:58**
21 A. 29 Beachwold Walk in Seaview. 10:18:59
22 **Q. And what was the other real estate 10:19:05**
23 **transaction in connection with which 10:19:13**
24 **Mr. Wingate loaned you money? 10:19:15**
25 A. He had held a mortgage on the 10:19:16
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1 Loeffler
2 property that I bought at 68 Ocean Road. 10:19:19
3 **Q. And how -- in what amount was the 10:19:21**
4 **mortgage? 10:19:27**
5 A. I don't remember. 10:19:27
6 **Q. If I suggested that it was a hundred 10:19:27**
7 **thousand dollars, would that refresh your 10:19:30**
8 **recollection? 10:19:31**
9 A. It could have been. 10:19:32
10 **Q. Have you ever been involved in any 10:19:32**
11 **purchase of real estate from Ocean Beach, that 10:19:40**
12 **is, the Village of Ocean Beach? 10:19:43**
13 A. Yes. 10:19:47
14 **Q. And on how many occasions have you 10:19:47**
15 **been involved in purchasing real estate from 10:19:49**
16 **the Village of Ocean Beach? 10:19:51**
17 A. One. 10:19:53
18 **Q. And when was that occasion? 10:19:53**
19 A. Approximately three years ago. 10:19:55
20 **Q. And what real estate did you 10:19:57**
21 **purchase at that time? 10:19:58**
22 A. I purchased a 4 by 50 foot right of 10:19:59
23 way from the Village of Ocean Beach. 10:20:04
24 **Q. And where is the -- that located, 10:20:06**
25 **the address? 10:20:09**
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1 Loeffler
2 A. 68 Ocean Road. 10:20:09
3 **Q. And how much did you pay for that 10:20:11**
4 **real estate? 10:20:14**
5 A. \$1,500, I think. 10:20:14
6 **Q. And do you know what the assessed 10:20:18**
7 **value of the real estate was at the time that 10:20:21**
8 **you purchased it? 10:20:23**
9 A. It didn't have an assessed value, I 10:20:24
10 don't think. 10:20:28
11 **Q. Subsequent to your purchase of that 10:20:29**
12 **piece of real estate, has it been assessed, to 10:20:32**
13 **your knowledge? 10:20:34**
14 A. No, it has not. 10:20:35
15 **Q. Do you know what the value of that 10:20:39**
16 **real estate is? 10:20:41**
17 A. No, I don't. 10:20:41
18 **Q. When did you first meet Trustee 10:20:50**
19 **James Mallott? 10:20:53**
20 A. Thirty years ago. 10:20:55
21 **Q. And what's the nature of your 10:20:56**
22 **relationship with Mr. Mallott? 10:20:58**
23 A. Friend. 10:20:59
24 **Q. And is he a family friend? Do your 10:21:04**
25 **families interact socially? 10:21:08**
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<p style="text-align: right;">Page 26</p> <p>1 Loeffler</p> <p>2 MR. NOVIKOFF: Objection. Form. 10:21:10</p> <p>3 Q. Do your families interact socially? 10:21:13</p> <p>4 A. No. 10:21:17</p> <p>5 Q. And when did you meet Trustee 10:21:18</p> <p>6 Kenneth Klein? 10:21:20</p> <p>7 A. Five years ago. 10:21:23</p> <p>8 Q. And in what context did you meet 10:21:28</p> <p>9 Mr. Klein? 10:21:30</p> <p>10 A. He was a member of the Zoning Board 10:21:31</p> <p>11 of Appeals in the Incorporated Village of Ocean 10:21:32</p> <p>12 Beach. 10:21:36</p> <p>13 Q. What's the nature of your 10:21:36</p> <p>14 relationship with Mr. Klein? 10:21:37</p> <p>15 A. He is a friend. 10:21:38</p> <p>16 Q. And Trustee Steven Einig, when did 10:21:43</p> <p>17 you first meet him? 10:21:46</p> <p>18 A. 2003. 10:21:48</p> <p>19 Q. In what context did you first meet 10:21:52</p> <p>20 Mr. Einig? 10:21:53</p> <p>21 A. He was a member of the sitting board 10:21:54</p> <p>22 of the Village of Ocean Beach. 10:21:56</p> <p>23 Q. When you say "the city board," is 10:21:59</p> <p>24 that -- 10:22:01</p> <p>25 A. Sitting board. 10:22:01</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 27</p> <p>1 Loeffler</p> <p>2 Q. Sitting board? 10:22:01</p> <p>3 A. Sitting, S-I-T-T-I-N-G. 10:22:04</p> <p>4 Q. What's the nature of your 10:22:07</p> <p>5 relationship with Mr. Einig? 10:22:09</p> <p>6 A. He is a friend. 10:22:10</p> <p>7 Q. Have any of your children ever been 10:22:11</p> <p>8 employed by Ocean Beach? 10:22:19</p> <p>9 A. Yes. 10:22:20</p> <p>10 Q. And which children have been 10:22:20</p> <p>11 employed by Ocean Beach? 10:22:23</p> <p>12 A. All of them. 10:22:24</p> <p>13 Q. What positions has Suzanne Loeffler 10:22:25</p> <p>14 held with Ocean Beach? 10:22:29</p> <p>15 A. She worked in the Village office and 10:22:30</p> <p>16 she was the director of the recreation 10:22:32</p> <p>17 department. 10:22:34</p> <p>18 Q. And during what period of time did 10:22:34</p> <p>19 she work in the Village office? 10:22:36</p> <p>20 A. I don't know the exact date. 10:22:37</p> <p>21 Q. Do you know the years? 10:22:44</p> <p>22 A. No, I don't. 10:22:45</p> <p>23 Q. And during what period of time, if 10:22:46</p> <p>24 you know, did she work in the recreation 10:22:49</p> <p>25 department? 10:22:52</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
<p style="text-align: right;">Page 28</p> <p>1 Loeffler</p> <p>2 A. Up until two years ago she worked 10:22:52</p> <p>3 there -- three years ago she worked there. 10:22:55</p> <p>4 Q. And do you know how long she held 10:22:57</p> <p>5 her position with that department? 10:22:59</p> <p>6 A. No, I don't. 10:23:00</p> <p>7 Q. And what positions has Jillian 10:23:01</p> <p>8 Loeffler held with the Village of Ocean Beach? 10:23:07</p> <p>9 A. She is the seasonal director of the 10:23:10</p> <p>10 recreation department. 10:23:13</p> <p>11 Q. And how long has she held that 10:23:13</p> <p>12 position? 10:23:15</p> <p>13 A. Two years. 10:23:15</p> <p>14 Q. Did you have any role in her 10:23:16</p> <p>15 obtaining that position? 10:23:18</p> <p>16 A. No, I did not. 10:23:19</p> <p>17 Q. And what positions has Mike Loeffler 10:23:20</p> <p>18 held with Ocean Beach? 10:23:24</p> <p>19 A. He was a seasonal lifeguard. 10:23:25</p> <p>20 Q. During what period of time was he a 10:23:27</p> <p>21 seasonal lifeguard? 10:23:30</p> <p>22 A. More than five years ago. 10:23:32</p> <p>23 Q. And what positions has Christine 10:23:39</p> <p>24 Loeffler held with Ocean Beach? 10:23:41</p> <p>25 A. She worked for the -- this last 10:23:43</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 29</p> <p>1 Loeffler</p> <p>2 summer for three months she worked at the 10:23:49</p> <p>3 recreation department. 10:23:52</p> <p>4 Q. And that was after Suzanne Loeffler 10:23:58</p> <p>5 no longer worked there? 10:24:02</p> <p>6 A. Correct. 10:24:03</p> <p>7 Q. Thank you. Are you related to 10:24:03</p> <p>8 Winnie or Winifred Loeffler? 10:24:09</p> <p>9 A. That's my mother. 10:24:10</p> <p>10 Q. Has your mother, Mrs. Loeffler, held 10:24:13</p> <p>11 any positions with Ocean Beach? 10:24:16</p> <p>12 A. Yes, she has. 10:24:17</p> <p>13 Q. What positions has she held? 10:24:19</p> <p>14 A. She was the court clerk. 10:24:21</p> <p>15 Q. During what period of time was she 10:24:22</p> <p>16 court clerk? 10:24:25</p> <p>17 A. Approximately 30 years. 10:24:25</p> <p>18 Q. And do you know what the nature of 10:24:30</p> <p>19 her duties were as Village clerk -- court 10:24:32</p> <p>20 clerk? Excuse me. 10:24:35</p> <p>21 A. She worked in the court. 10:24:35</p> <p>22 Q. Other than the members of your 10:24:40</p> <p>23 family who we have just been discussing, have 10:24:42</p> <p>24 any other family members of yours ever been 10:24:45</p> <p>25 employed by Ocean Beach? 10:24:47</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

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1 Loeffler
2 A. My father. 10:24:48
3 Q. And was your father the chief of 10:24:49
4 police at Ocean Beach? 10:24:53
5 A. Yes, he was. 10:24:53
6 Q. And do you know during what period 10:24:54
7 of time he was the police chief? 10:24:56
8 A. From 1956 until 1993 maybe. 10:24:58
9 Q. Have any other members of your 10:25:15
10 family been employed by Ocean Beach? 10:25:17
11 A. My brother, Alan. 10:25:19
12 Q. Alan Loeffler? 10:25:20
13 A. Yes, sir. 10:25:21
14 Q. What position has your brother held 10:25:22
15 with Ocean Beach? 10:25:24
16 A. He was a police officer in the 10:25:25
17 Village Police Department. 10:25:26
18 Q. And, to your knowledge, has Alan 10:25:30
19 Loeffler held any law enforcement positions 10:25:33
20 outside of Ocean Beach? 10:25:35
21 A. Yes, he has. 10:25:37
22 Q. And what law enforcement positions 10:25:38
23 has he held? 10:25:41
24 A. He worked for the U.S. Marshal 10:25:41
25 Service and he worked for the Town of Islip. 10:25:43
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1 Loeffler
2 Q. Do you know what position he held in 10:25:50
3 the Town of Islip? 10:25:51
4 A. He was harbor master. 10:25:52
5 Q. Is that a law enforcement position? 10:25:54
6 A. Yes, it is. 10:25:57
7 Q. Do you know during what period of 10:25:59
8 time he held the position of harbor master in 10:26:01
9 the Town of Islip? 10:26:04
10 A. Thirty years. For thirty years. He 10:26:05
11 just retired, so that would be from, let's see, 10:26:07
12 1975 to 2005, something like that. 10:26:10
13 Q. And did your brother, Alan Loeffler, 10:26:19
14 communicate to you why he was retiring in 2005? 10:26:23
15 A. Because he had thirty years in the 10:26:25
16 department. 10:26:27
17 Q. Have you ever been convicted of a 10:26:34
18 crime? 10:26:36
19 A. No. 10:26:36
20 MR. NOVIKOFF: You don't want to ask 10:26:40
21 what position he had with the U.S. Marshal? 10:26:42
22 MR. GRAFF: I will ask the questions 10:26:47
23 that I'd like to ask. 10:26:48
24 MR. NOVIKOFF: All right. I just 10:26:50
25 thought it was interesting that you only 10:26:51
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1 Loeffler
2 asked about the Town of Islip and not the 10:26:52
3 U.S. Marshal. 10:26:54
4 Q. Since your counsel has raised it, 10:26:55
5 what position did Alan Loeffler hold at the 10:26:57
6 U.S. Marshal? 10:26:59
7 A. He was a sky marshal during the 10:27:00
8 early '70s working at Kennedy Airport. 10:27:02
9 Q. Have you had any conversations with 10:27:09
10 former Mayor Rogers concerning this lawsuit? 10:27:11
11 A. No. 10:27:14
12 MR. NOVIKOFF: Okay. You can 10:27:16
13 answer. Right, you can answer. He 10:27:18
14 wouldn't have been an employee at the time. 10:27:19
15 A. Would you repeat the question, 10:27:22
16 please. 10:27:23
17 Q. Have you had any conversations with 10:27:23
18 former Mayor Rogers concerning this lawsuit? 10:27:25
19 MR. NOVIKOFF: Oh, actually, other 10:27:28
20 than in the presence of counsel. 10:27:29
21 MR. GRAFF: Yes. 10:27:31
22 Q. None of my questions today are 10:27:32
23 intended to get at anything that was 10:27:33
24 communicated by your counsel to you or by you 10:27:35
25 to your counsel or by anyone else in your 10:27:38
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1 Loeffler
2 presence in the presence of counsel for the 10:27:41
3 purpose of obtaining legal advice. 10:27:43
4 With that in mind, have you had any 10:27:45
5 conversations with former Mayor Rogers 10:27:47
6 concerning this lawsuit? 10:27:49
7 A. Yes. 10:27:51
8 Q. On how many occasions have you 10:27:52
9 spoken with Mayor Rogers concerning this 10:27:54
10 lawsuit? 10:27:57
11 A. Once. 10:27:57
12 Q. And when did that conversation take 10:27:57
13 place? 10:27:59
14 A. About a year ago. 10:28:00
15 Q. And in substance, can you tell me 10:28:03
16 what was discussed between the two of you in 10:28:05
17 that conversation? 10:28:08
18 MR. NOVIKOFF: As long as it was 10:28:09
19 outside the presence of counsel. 10:28:11
20 A. It was discussed that we were both 10:28:12
21 defendants in this lawsuit and that we were 10:28:14
22 going to pursue this lawsuit vigorously. 10:28:16
23 Q. Have you had any conversations with 10:28:22
24 Mary Anne Minerva concerning this lawsuit? 10:28:25
25 A. Yes. 10:28:27
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1 Loeffler
2 **Q. And what's the most recent occasion 10:28:28**
3 **when you communicated with Ms. Minerva about 10:28:30**
4 **this lawsuit? 10:28:33**
5 MR. NOVIKOFF: Now, I am only going 10:28:34
6 to direct the witness on two things. One, 10:28:35
7 if your discussion with Ms. Minerva was in 10:28:37
8 the presence of counsel, you don't answer, 10:28:39
9 or if your discussion with Ms. Minerva was 10:28:42
10 at the request of counsel in order to 10:28:44
11 obtain information concerning this lawsuit, 10:28:48
12 then I would instruct you not to answer. 10:28:50
13 Other than that, go wild. 10:28:52
14 A. I spoke to her last week informing 10:28:55
15 her that I would be at this EBT. 10:28:58
16 **Q. Other than that conversation and any 10:29:01**
17 **conversations, as your counsel noted, that were 10:29:04**
18 **in the presence of counsel or under the 10:29:08**
19 **direction of counsel in connection with 10:29:10**
20 **litigation of this case, have you had any other 10:29:13**
21 **communications with Ms. Minerva about this 10:29:15**
22 **lawsuit? 10:29:18**
23 A. Yes. 10:29:18
24 **Q. And in substance what have you 10:29:18**
25 **discussed with Ms. Minerva about this lawsuit? 10:29:20**
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1 Loeffler
2 A. I thought it was a waste of my time 10:29:22
3 and a frivolous lawsuit brought by some 10:29:24
4 disgruntled employees. 10:29:26
5 **Q. Did you have any conversations with 10:29:28**
6 **Ms. Minerva concerning her deposition in this 10:29:30**
7 **lawsuit? 10:29:32**
8 MR. NOVIKOFF: Concerning the fact 10:29:33
9 that she was going to be deposed or 10:29:34
10 concerning anything she said at her 10:29:36
11 deposition after the fact? 10:29:38
12 MR. GRAFF: Either. 10:29:39
13 MR. NOVIKOFF: Then objection to 10:29:40
14 form. Break it down. 10:29:41
15 A. Would you please repeat the 10:29:44
16 question. 10:29:45
17 **Q. Have you had any conversations with 10:29:45**
18 **Ms. Minerva concerning her deposition in this 10:29:47**
19 **lawsuit? 10:29:49**
20 MR. NOVIKOFF: Objection to form. 10:29:49
21 You can answer. 10:29:50
22 A. No, I have not. 10:29:51
23 **Q. And have you had any conversations 10:29:52**
24 **with Mayor Rogers -- former Mayor Rogers about 10:29:56**
25 **her deposition in this lawsuit? 10:30:00**
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1 Loeffler
2 MR. NOVIKOFF: Objection to form. 10:30:01
3 A. No, I have not. 10:30:02
4 **Q. Do you know who Patrick Cherry is? 10:30:10**
5 A. Yes, I do. 10:30:13
6 **Q. And who is Patrick Cherry? 10:30:14**
7 A. He is an employee of the 10:30:16
8 Incorporated Village of Ocean Beach. 10:30:18
9 **Q. And in what capacity is he employed? 10:30:19**
10 A. He is a dispatcher. 10:30:21
11 **Q. Is that a police dispatcher? 10:30:23**
12 A. Yes, he is. 10:30:24
13 **Q. Have you had any conversations with 10:30:25**
14 **Pat Cherry regarding this lawsuit? 10:30:27**
15 **(Kevin Lamm enters.) 10:30:29**
16 A. No, I have not. 10:30:29
17 **Q. Have you had any conversations with 10:30:31**
18 **George Hesse about this lawsuit? 10:30:48**
19 A. Yes, I have. 10:30:50
20 MR. NOVIKOFF: I'm sorry, could you 10:30:58
21 just read that question? Only because I 10:30:59
22 believe another plaintiff came into the 10:31:00
23 room in the course of the question, Kevin 10:31:01
24 Lamm, so I just want to note that, and if 10:31:02
25 you could just read the question back. 10:31:04
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1 Loeffler
2 (Record read.) 10:31:11
3 **Q. And when is the most recent occasion 10:31:12**
4 **on which you had communication with George 10:31:14**
5 **Hesse about this lawsuit? 10:31:16**
6 A. About a week ago. 10:31:18
7 **Q. What did you discuss with George 10:31:23**
8 **Hesse in that conversation a week ago? 10:31:27**
9 A. That I would be attending this EBT. 10:31:28
10 **Q. Was anything else -- strike that. 10:31:31**
11 **Did he say anything to you in 10:31:33**
12 **response when you communicated that fact? 10:31:34**
13 A. He said "good luck." 10:31:35
14 **Q. Was anything else discussed between 10:31:37**
15 **the two of you in that conversation? 10:31:39**
16 A. No. 10:31:40
17 MR. NOVIKOFF: About this lawsuit? 10:31:40
18 MR. GRAFF: No, in general. 10:31:41
19 MR. NOVIKOFF: Oh, okay. 10:31:43
20 A. I discussed how the weather was in 10:31:45
21 New York, I discussed how his family was, I 10:31:47
22 talked to him about his boat. General 10:31:49
23 conversation that friends talk about, but not 10:31:53
24 about this lawsuit. 10:31:56
25 **Q. And does George Hesse own a boat? 10:31:59**
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1 Loeffler
2 A. Yes, he does. 10:32:02
3 **Q. What kind of boat does he have? 10:32:03**
4 A. 32-foot Sea Ray. 10:32:05
5 **Q. Do you own any boats? 10:32:09**
6 A. Yes, I do. 10:32:10
7 **Q. Do you own more than one boat? 10:32:10**
8 A. No, I do not. 10:32:12
9 **Q. What kind of boat do you own? 10:32:14**
10 A. A 25-foot Contender. 10:32:15
11 **Q. Other than the conversation with 10:32:17**
12 **George Hesse that you have already referred to, 10:32:19**
13 **have you had any other communications with 10:32:21**
14 **Mr. Hesse concerning this lawsuit? 10:32:23**
15 A. No. 10:32:25
16 MR. NOVIKOFF: Concerning this 10:32:31
17 lawsuit after the Complaint was filed? 10:32:33
18 MR. GRAFF: That's what initiated 10:32:37
19 the lawsuit, so yes. 10:32:39
20 MR. NOVIKOFF: Well, your question 10:32:41
21 was a little bit vague, so I just wanted to 10:32:42
22 be clear that the witness is only 10:32:44
23 addressing conversations with Mr. Hesse 10:32:45
24 after the commencement of this lawsuit 10:32:47
25 concerning this lawsuit. 10:32:49
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1 Loeffler
2 The question is other than what you 10:32:53
3 have just testified to, have you spoken 10:32:55
4 with Mr. Hesse concerning this lawsuit 10:32:57
5 after this lawsuit was filed? 10:33:01
6 A. Yes. That's what I said, didn't I? 10:33:04
7 **Q. And what was communicated in 10:33:08**
8 **substance between you and Mr. Hesse in those 10:33:10**
9 **conversations? 10:33:12**
10 A. Basically that I would be attending 10:33:13
11 a deposition, that the lawsuit was pending. 10:33:17
12 There was other discussions taking place about 10:33:23
13 other Village business, but not about this 10:33:27
14 lawsuit. 10:33:30
15 **Q. Have you reviewed the Complaint that 10:33:30**
16 **was filed in federal court in this lawsuit? 10:33:32**
17 A. Yes, I have. 10:33:35
18 **Q. And did you discuss the Complaint 10:33:36**
19 **with George Hesse? 10:33:39**
20 A. Yes, I did. 10:33:40
21 **Q. And were there any specific 10:33:48**
22 **allegations in the Complaint that you can 10:33:49**
23 **recall discussing with George Hesse? 10:33:51**
24 A. I only discussed with him the 10:33:54
25 portions of the Complaint that were reference 10:33:56
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1 Loeffler
2 to me. 10:33:59
3 MR. NOVIKOFF: So you didn't have a 10:34:02
4 long conversation, did you? 10:34:04
5 THE WITNESS: No, sir. 10:34:05
6 **Q. And do you recall what was 10:34:06**
7 **communicated in substance between you and 10:34:10**
8 **Mr. Hesse about those portions of the 10:34:13**
9 **Complaint? 10:34:14**
10 A. That they were baseless and untrue. 10:34:15
11 **Q. Did you discuss any of the 10:34:17**
12 **allegations in the Complaint with former Mayor 10:34:26**
13 **Rogers? 10:34:30**
14 MR. NOVIKOFF: Outside the presence 10:34:30
15 of counsel. 10:34:31
16 A. No, I did not. 10:34:32
17 **Q. Have you had any communications with 10:34:33**
18 **any of the plaintiffs since this lawsuit was 10:34:37**
19 **filed? 10:34:39**
20 A. No, I have not. 10:34:39
21 **Q. When did you first learn that the 10:34:44**
22 **plaintiffs were making allegations against 10:34:46**
23 **Ocean Beach concerning the subject matter of 10:34:48**
24 **this lawsuit? 10:34:50**
25 A. With the filing of the lawsuit. 10:34:51
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1 Loeffler
2 **Q. And that's the federal lawsuit? 10:34:54**
3 A. Yes. I believe that was in April 10:34:56
4 about. I'm not sure of the exact date. 10:34:59
5 **Q. Do you know who Richard Bosetti is? 10:35:02**
6 A. Yes, I do. 10:35:08
7 **Q. Who is Richard Bosetti? 10:35:09**
8 A. He is a former police officer in the 10:35:11
9 Incorporated Village of Ocean Beach. 10:35:13
10 **Q. And when did he stop serving as a 10:35:14**
11 **police officer, if you know? 10:35:18**
12 A. Sometime this year. I don't know if 10:35:20
13 it was '08 or '09. I'm not positive. 10:35:23
14 **Q. Did you ever have any communications 10:35:27**
15 **with Richard Bosetti concerning the subject of 10:35:29**
16 **this lawsuit? 10:35:32**
17 A. No, I did not. 10:35:32
18 **Q. And do you know why Richard Bosetti 10:35:33**
19 **stopped working as a police officer with the 10:35:37**
20 **Incorporated Village of Ocean Beach? 10:35:39**
21 A. He resigned. 10:35:41
22 **Q. Do you know who Gary Bosetti is? 10:35:42**
23 A. Yes, I do. 10:35:49
24 **Q. Is that Richard Bosetti's brother? 10:35:49**
25 A. Yes, it is. 10:35:51
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1 Loeffler
2 Q. And was he also a police officer at 10:35:52
3 Ocean Beach? 10:35:54
4 A. Yes, he was. 10:35:54
5 Q. And do you know during what period 10:35:55
6 of time he was a police officer with Ocean 10:35:57
7 Beach? 10:35:59
8 A. No, I do not. 10:35:59
9 Q. Do you know when his service as a 10:36:00
10 police officer ended? 10:36:02
11 A. '07, '08. 10:36:02
12 Q. And do you know why Gary Bosetti's 10:36:09
13 service as a police officer ended at that time? 10:36:13
14 A. He resigned. 10:36:14
15 Q. Do you know anything about the 10:36:16
16 circumstances of his resignation? 10:36:18
17 A. No, I don't. 10:36:20
18 Q. And do you know anything about the 10:36:25
19 circumstances of Richard Bosetti's resignation? 10:36:28
20 A. No, I do not. 10:36:31
21 Q. Did you ever ask either Richard or 10:36:32
22 Gary Bosetti to resign? 10:36:34
23 A. I did not. 10:36:35
24 Q. Did you ever direct anyone else to 10:36:36
25 ask either Richard or Gary Bosetti to resign? 10:36:40
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1 Loeffler
2 A. I did not. 10:36:42
3 Q. Did you have any communications with 10:36:46
4 either Richard or Gary Bosetti concerning 10:36:49
5 either of their resignations? 10:36:53
6 A. I did not. 10:36:54
7 Q. Have you had any conversations with 10:36:55
8 either -- strike that -- with Gary Bosetti 10:36:57
9 concerning the subject of this lawsuit? 10:37:00
10 A. I did not. 10:37:02
11 Q. Do you know who Ty or Tyree Bacon 10:37:08
12 is? 10:37:10
13 A. Yes, I do. 10:37:11
14 Q. And who is Tyree Bacon? 10:37:12
15 A. He is a police officer in the 10:37:14
16 Village of Ocean Beach. 10:37:16
17 Q. Have you had any conversations with 10:37:17
18 Tyree Bacon about this lawsuit? 10:37:19
19 A. No, I have not. 10:37:22
20 Q. Have you had any conversations with 10:37:23
21 Tyree Bacon about any of the allegations in the 10:37:25
22 Complaint? 10:37:27
23 A. No, I have not. 10:37:27
24 Q. Are you currently a resident of 10:37:28
25 Ocean Beach? 10:37:40
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1 Loeffler
2 A. Yes. 10:37:41
3 MR. NOVIKOFF: Objection. 10:37:41
4 You can answer. 10:37:42
5 A. Yes, I am. 10:37:44
6 Q. And do you reside at 68 or 68-69 10:37:45
7 Ocean Road? 10:37:48
8 A. Yes, I do. 10:37:49
9 Q. I have a few questions that just go 10:37:50
10 to your educational background. 10:37:56
11 Did you graduate high school? 10:37:59
12 A. Yes, I did. 10:38:00
13 Q. What high school did you attend? 10:38:01
14 A. Bay Shore High School. 10:38:02
15 Q. And what year did you graduate? 10:38:04
16 A. 1967. 10:38:08
17 Q. And did you attend any college or 10:38:09
18 university? 10:38:12
19 A. Yes, I did. 10:38:12
20 Q. And what college or university did 10:38:13
21 you attend after high school? 10:38:16
22 A. The State University College of 10:38:19
23 Potsdam. 10:38:21
24 Q. And did you obtain a degree from the 10:38:23
25 State University College of Potsdam? 10:38:25
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1 Loeffler
2 A. No, I did not. 10:38:28
3 Q. How many years did you attend the 10:38:29
4 State University College of Potsdam? 10:38:33
5 A. Two. Two. 10:38:36
6 Q. And other than those two years, have 10:38:38
7 you had any other formal coursework at any 10:38:43
8 college or university? 10:38:47
9 A. Yes. 10:38:48
10 Q. And could you identify that, please? 10:38:48
11 A. Dowling College. 10:38:51
12 Q. And what did you study at Dowling 10:38:53
13 College? 10:38:55
14 A. Business administration. 10:38:55
15 Q. And did you attain any degree at 10:38:57
16 Dowling College? 10:39:00
17 A. Yes, I did. 10:39:01
18 Q. What degree? 10:39:02
19 A. Bachelor of business administration. 10:39:02
20 Q. And in what year did you get that 10:39:05
21 degree? 10:39:06
22 A. Sometime in the '80s. 10:39:07
23 Q. Have you attended any other colleges 10:39:12
24 or universities? 10:39:15
25 A. Farmingdale University. 10:39:16
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1 Loeffler
2 **Q. And what was the nature of your** 10:39:19
3 **study at Farmingdale University?** 10:39:22
4 A. Finance. 10:39:24
5 **Q. Did you attain any degree from** 10:39:26
6 **Farmingdale University?** 10:39:29
7 A. No, I did not. 10:39:30
8 **Q. How many years did you attend** 10:39:31
9 **Farmingdale?** 10:39:33
10 A. Two. 10:39:34
11 **Q. Have you attended any other colleges** 10:39:34
12 **or universities other than what we have already** 10:39:37
13 **discussed?** 10:39:40
14 A. No. 10:39:40
15 **Q. Why did you stop attending** 10:39:40
16 **Farmingdale University after two years?** 10:39:42
17 A. I only took some night courses 10:39:44
18 there. 10:39:46
19 **Q. And was that in pursuit of any** 10:39:47
20 **certification or formal credential?** 10:39:50
21 A. Yes, it was. 10:39:52
22 **Q. And did you attain any kind of** 10:39:53
23 **certification or formal credential?** 10:39:56
24 A. Yes, I did. 10:39:58
25 **Q. And in what?** 10:39:59
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1 Loeffler
2 A. I got a bachelor of business 10:40:01
3 administration from Dowling College and I used 10:40:03
4 those credits that I obtained in Farmingdale 10:40:05
5 towards the pursuit of that degree. 10:40:07
6 **Q. Thank you. Other than the colleges** 10:40:09
7 **and universities that you have already** 10:40:14
8 **identified, have you attended any other** 10:40:15
9 **colleges or universities?** 10:40:17
10 A. No, I have not. 10:40:18
11 **Q. Have you attained any other degrees** 10:40:20
12 **or certifications?** 10:40:21
13 A. Yes. I received a certificate from 10:40:22
14 the Metropolitan Police Training Council as a 10:40:32
15 police officer of the Suffolk County Police 10:40:36
16 Department in 1973. 10:40:40
17 **Q. Have you attained any other** 10:40:43
18 **certifications?** 10:40:46
19 A. I attained -- I attended the FBI 10:40:47
20 Academy training as a hostage negotiator and 10:40:51
21 received a certificate for that. 10:40:57
22 **Q. And when did you receive that** 10:40:58
23 **certificate?** 10:40:59
24 A. In 1987. 10:40:59
25 **Q. Have you attained any other** 10:41:03
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1 Loeffler
2 **certifications?** 10:41:04
3 A. No, I have not. 10:41:05
4 **Q. Other than this lawsuit, have you** 10:41:10
5 **been involved in any other lawsuits in the** 10:41:22
6 **context of your service at Ocean Beach?** 10:41:26
7 MR. NOVIKOFF: Objection to the form 10:41:29
8 of the question. I would think that as 10:41:30
9 mayor or trustee any time the Village was 10:41:33
10 sued, this witness would be involved, so I 10:41:36
11 am objecting to the form. I think I have 10:41:44
12 given you a way to clean it up. 10:41:45
13 MR. GRAFF: I will come back to 10:42:00
14 that. 10:42:01
15 **Q. Have you ever sued or threatened to** 10:42:01
16 **sue any employer of yours?** 10:42:03
17 MR. NOVIKOFF: Wait a minute. 10:42:05
18 Can you read that question. 10:42:06
19 (Record read.) 10:42:11
20 MR. NOVIKOFF: Any employer of -- 10:42:12
21 okay. I understand the question. 10:42:14
22 Objection to form. 10:42:15
23 A. No, I have not. 10:42:17
24 **Q. Other than these plaintiffs, have** 10:42:18
25 **any employees of Ocean Beach ever sued or** 10:42:24
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1 Loeffler
2 **threatened to sue you personally?** 10:42:27
3 MR. NOVIKOFF: Objection to form. 10:42:29
4 That he is aware of? 10:42:31
5 MR. GRAFF: Yes. 10:42:32
6 MR. NOVIKOFF: Okay. I am still 10:42:33
7 going to object to form, but that at least 10:42:34
8 clears up part of the objection. 10:42:37
9 A. No. 10:42:38
10 **Q. Have any formal grievances ever been** 10:42:38
11 **filed against you personally during your** 10:42:44
12 **services at Ocean Beach?** 10:42:46
13 MR. NOVIKOFF: Objection to the 10:42:48
14 phrase "formal grievances." I don't know 10:42:50
15 what that means. 10:42:51
16 **Q. Do you know what a grievance is? Is** 10:42:52
17 **there a grievance in the context of Ocean** 10:42:54
18 **Beach?** 10:42:55
19 MR. NOVIKOFF: Is it now grievance 10:42:55
20 or is it now formal grievance? Your 10:42:56
21 question was formal grievance. 10:42:58
22 **Q. Would you know what I am referring** 10:42:59
23 **to by the phrase "formal grievance,"** 10:43:01
24 **Mr. Loeffler?** 10:43:04
25 A. Not in the context you are asking 10:43:04
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1 Loeffler
2 the question, no. 10:43:06
3 **Q. Is there another context in which -- 10:43:07**
4 MR. NOVIKOFF: There could be 10:43:10
5 multiple contexts. 10:43:11
6 **Q. Have you ever been disciplined by 10:43:14**
7 **any employer? 10:43:17**
8 A. No, I have not. 10:43:17
9 **Q. Have you ever been terminated from 10:43:18**
10 **any employment position? 10:43:20**
11 A. No, I have not. 10:43:22
12 **Q. Have you ever been asked to resign 10:43:23**
13 **from any position? 10:43:24**
14 A. No, I have not. 10:43:26
15 **Q. Have you ever been subject to any 10:43:27**
16 **discipline by any employer? 10:43:29**
17 A. I believe you already asked that 10:43:30
18 question. I have not. 10:43:32
19 **Q. The answer is no. 10:43:33**
20 **Other than any conversations with 10:43:36**
21 **counsel, what, if anything, did you do to 10:43:38**
22 **prepare for this deposition today? 10:43:40**
23 MR. NOVIKOFF: And other than 10:43:43
24 meeting with counsel, meeting and speaking 10:43:45
25 with counsel? 10:43:47
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1 Loeffler
2 MR. GRAFF: Yes. 10:43:47
3 MR. NOVIKOFF: And anything that 10:43:50
4 took place within that meeting, like 10:43:51
5 looking at documents? I mean, I think we 10:43:52
6 have already established you can ask him if 10:43:55
7 he looked at any documents to refresh his 10:43:57
8 recollection, but I don't think it's 10:44:00
9 appropriate for you to ask him if he looked 10:44:01
10 at any documents that I or Michael Welch or 10:44:03
11 Josh Jemal handed to him. So that's why I 10:44:06
12 am just, you know, trying to figure out 10:44:09
13 exactly what you are asking. 10:44:10
14 MR. GRAFF: Okay. 10:44:11
15 **Q. With that distinction in mind, what, 10:44:12**
16 **if anything, have you done to prepare for this 10:44:15**
17 **deposition? 10:44:17**
18 A. Would you repeat that. I don't 10:44:17
19 quite understand what you are asking. 10:44:19
20 **Q. Sure. Other than anything that 10:44:20**
21 **happened in any meetings with counsel, what, if 10:44:21**
22 **anything, did you do to prepare for this 10:44:24**
23 **deposition? 10:44:26**
24 A. I took a shower this morning, had 10:44:26
25 breakfast. 10:44:30
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1 Loeffler
2 **Q. Have you reviewed any transcripts 10:44:31**
3 **from any other depositions in this case? 10:44:33**
4 A. No. 10:44:35
5 MR. NOVIKOFF: Outside the 10:44:35
6 presentation of counsel? 10:44:36
7 MR. GRAFF: No, in general. 10:44:37
8 MR. NOVIKOFF: I don't know if -- 10:44:40
9 and I think the answer is already given, 10:44:44
10 but if I showed him a transcript of a 10:44:47
11 witness, I don't know if that's 10:44:51
12 discoverable. I think if he looked at a 10:44:55
13 transcript to refresh his recollection, at 10:44:57
14 least based upon what Judge Boyle has 10:45:00
15 already ruled, that would not be 10:45:02
16 objectionable. So that's the distinction. 10:45:04
17 MR. GRAFF: I understand the 10:45:06
18 distinction you are making. I am asking if 10:45:07
19 he has reviewed any transcripts. 10:45:09
20 MR. NOVIKOFF: Outside of the 10:45:10
21 presence -- 10:45:11
22 MR. GRAFF: No. I am asking if he 10:45:12
23 has reviewed any transcripts. 10:45:13
24 MR. NOVIKOFF: He answered no. 10:45:17
25 I'm -- the answer is not waiving my right 10:45:20
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1 Loeffler
2 to object on the grounds of attorney/client 10:45:21
3 privilege, but since you already answered 10:45:25
4 "no," we might as well move on instead of 10:45:27
5 fighting for ten minutes. 10:45:29
6 MR. GRAFF: Thank you. 10:45:30
7 **Q. And the answer to that was no? 10:45:31**
8 A. Yes. 10:45:33
9 **Q. Did you review any documents that 10:45:34**
10 **refreshed your recollection of anything in 10:45:36**
11 **connection with this deposition today? 10:45:41**
12 A. No, I have not. 10:45:42
13 **Q. Other than the law firm of Rivkin 10:45:43**
14 **Radler, have there been other law firms that 10:46:07**
15 **have represented you or the Village of Ocean 10:46:09**
16 **Beach in this lawsuit? 10:46:10**
17 MR. NOVIKOFF: And other than Josh 10:46:14
18 Jemal's law firm, which I think we can all 10:46:16
19 stipulate has been -- 10:46:19
20 MR. GRAFF: Yes. 10:46:19
21 MR. NOVIKOFF: -- general counsel. 10:46:19
22 A. I believe Mark Anash was 10:46:22
23 the first -- no, I don't -- no. 10:46:25
24 MR. NOVIKOFF: If you can recall. 10:46:27
25 It's not a guessing game. 10:46:29
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1 Loeffler
2 A. I don't recall. No, I believe it's 10:46:30
3 been Rivkin Radler. 10:46:31
4 **Q. And just to be clear, is there 10:46:34**
5 **another law firm that the name you can't 10:46:36**
6 **remember now or you are -- 10:46:38**
7 A. No. In this lawsuit, Rivkin Radler. 10:46:39
8 MR. NOVIKOFF: But, again, I mean, 10:46:41
9 this is a memory game, Ari, because I think 10:46:43
10 the record in the docket would reflect that 10:46:45
11 there was, in fact, another lawsuit that 10:46:48
12 appeared on behalf of Ocean Beach prior to 10:46:50
13 Rivkin Radler. 10:46:52
14 MR. GRAFF: I am asking now -- 10:46:52
15 MR. NOVIKOFF: I know, I mean, you 10:46:53
16 are asking -- 10:46:54
17 A. I don't know who it was. I don't 10:46:54
18 remember. 10:46:56
19 MR. GRAFF: I asked the court 10:47:01
20 reporter to mark as Exhibit 1 a one-page 10:47:02
21 document produced by Ocean Beach without 10:47:05
22 Bates number. I am going to pass that to 10:47:07
23 the witness. 10:47:09
24 I will note that Mr. Novikoff is 10:47:11
25 holding the document. 10:47:12
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1 Loeffler
2 MR. NOVIKOFF: Because I would like 10:47:12
3 to look at it. 10:47:12
4 MR. GRAFF: I do have a copy for 10:47:13
5 you, Mr. Novikoff. 10:47:15
6 MR. NOVIKOFF: Thank you. And I 10:47:16
7 would like to compare it to the copy that 10:47:16
8 you provided me. Is there a question? Or 10:47:20
9 would you like the witness to look at it? 10:47:25
10 MR. GRAFF: I'd like the witness to 10:47:27
11 look at it first and to tell me if he 10:47:28
12 recognizes the document. 10:47:30
13 MR. NOVIKOFF: Fair enough. 10:47:30
14 There you go (handing). 10:47:31
15 (Document review.) 10:47:45
16 MR. NOVIKOFF: The only question is 10:47:54
17 do you recognize it. Not the information 10:47:54
18 that's on it -- 10:47:59
19 THE WITNESS: Okay. 10:47:59
20 MR. NOVIKOFF: -- just the document. 10:48:00
21 A. I've never seen this before. 10:48:00
22 **Q. Okay. 10:48:02**
23 A. This is the first time I am seeing 10:48:03
24 this. 10:48:05
25 **Q. The document is headed Confidential 10:48:05**
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1 Loeffler
2 **Wage Salary/History, employee name is Joseph C. 10:48:09**
3 **Loeffler, Jr. 10:48:12**
4 **If you look towards the bottom of 10:48:13**
5 **the document, it indicates that you were mayor 10:48:15**
6 **from July 3rd, '06 and the end date it has here 10:48:16**
7 **is May 31st, '07. 10:48:19**
8 MR. NOVIKOFF: That's what the 10:48:21
9 document says, yes. 10:48:22
10 **Q. Is that the date that you began 10:48:23**
11 **serving as mayor? 10:48:25**
12 MR. NOVIKOFF: So the question is 10:48:26
13 did you start serving as mayor of Ocean 10:48:27
14 Beach on July 3rd, 2006? 10:48:29
15 MR. GRAFF: Yes. 10:48:31
16 A. Yes, I did. 10:48:32
17 **Q. And the document above mayor 10:48:33**
18 **indicates that you served as a trustee, it has 10:48:36**
19 **it on a number of lines, but the period of time 10:48:37**
20 **is from August 2002 through May 30 -- I'm 10:48:39**
21 **sorry, through July 2nd, 2006. 10:48:43**
22 **Is that the time that you served as 10:48:45**
23 **a trustee in Ocean Beach? 10:48:47**
24 A. Yes, that's correct. 10:48:49
25 **Q. And if it would be of assistance to 10:48:50**
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1 Loeffler
2 **you in connection with these questions, I'm 10:48:52**
3 **sure Mr. Novikoff would be happy to let you see 10:48:54**
4 **the document. 10:48:56**
5 MR. NOVIKOFF: If Mr. Loeffler -- if 10:48:56
6 he needs to look at the document to refresh 10:48:58
7 his recollection, then he will so advise 10:48:59
8 me. 10:49:02
9 **Q. During the period that you were 10:49:02**
10 **trustee or mayor, did you hold any other 10:49:03**
11 **employment? 10:49:07**
12 MR. NOVIKOFF: With Ocean Beach? 10:49:08
13 MR. GRAFF: With anyone. 10:49:09
14 MR. NOVIKOFF: Okay. 10:49:11
15 A. I was employed by the Suffolk County 10:49:11
16 Police Department. 10:49:14
17 **Q. And what position did you hold at 10:49:15**
18 **the Suffolk County Police Department during 10:49:16**
19 **that period? 10:49:18**
20 A. I was a detective. 10:49:19
21 **Q. And who was your direct superior in 10:49:25**
22 **the Suffolk County Police Department during 10:49:29**
23 **that period? 10:49:30**
24 MR. NOVIKOFF: Objection to the 10:49:35
25 frame -- to the form. 10:49:36
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1 Loeffler
2 A. James -- Lieutenant James Maher. 10:49:38
3 **Q. Was he your supervisor during that 10:50:01**
4 **entire period? 10:50:03**
5 A. What period is that? 10:50:04
6 **Q. The period when you were also 10:50:06**
7 **serving as trustee or mayor. 10:50:08**
8 A. I believe so. 10:50:09
9 **Q. Have you held any other employment 10:50:16**
10 **other than a Suffolk County detective during 10:50:17**
11 **the period that you served as trustee or mayor? 10:50:22**
12 A. No. 10:50:25
13 **Q. Moving up on the document, it 10:50:25**
14 **indicates that you were a building inspector 10:50:30**
15 **from January 1st, 1980 through June 1st, 1980. 10:50:32**
16 **Do you recall that? 10:50:38**
17 A. Yes, I do. 10:50:39
18 **Q. Between the time that you finished 10:50:39**
19 **serving as a building inspector until you 10:50:42**
20 **became a trustee, what, if any, employment did 10:50:44**
21 **you hold? 10:50:46**
22 MR. NOVIKOFF: With the Village? 10:50:47
23 MR. GRAFF: With anyone. What, if 10:50:49
24 any, employment. 10:50:51
25 A. I was employed by the Suffolk County 10:50:52
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1 Loeffler
2 Police Department. 10:50:54
3 **Q. Any other employment? 10:50:54**
4 A. No. 10:50:56
5 **Q. What about during those years when 10:50:56**
6 **you were a building inspector in 1980, did you 10:51:00**
7 **hold any other employment? 10:51:04**
8 A. No. 10:51:04
9 **Q. Were you also employed by the 10:51:05**
10 **Suffolk County Police Department? 10:51:07**
11 A. Yes, oh, yes. I've been employed by 10:51:08
12 the Suffolk County Police Department from July 10:51:11
13 of 1973 through January of 2004. 10:51:13
14 **Q. And did you -- were you continuously 10:51:21**
15 **employed by the Suffolk County Police 10:51:22**
16 **Department during that entire period? 10:51:24**
17 A. Yes, I was. 10:51:25
18 **Q. Okay. Moving up on the document, it 10:51:26**
19 **indicates that you served as a police officer 10:51:32**
20 **at Ocean Beach from September 5th, 1970 through 10:51:34**
21 **July 7th, 1973. Is that accurate, to the best 10:51:40**
22 **of your recollection? 10:51:44**
23 A. Yes. 10:51:45
24 **Q. Other than the positions that I have 10:51:46**
25 **referred to on Exhibit 1 and your position with 10:51:52**
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1 Loeffler
2 **the Suffolk County Police Department, have you 10:51:54**
3 **held any other employment during the period? 10:51:57**
4 A. Well, I think that I was a -- I 10:52:02
5 worked -- I picked up garbage. I worked in the 10:52:04
6 maintenance department for two summers while I 10:52:07
7 was in college. 10:52:09
8 **Q. And that was at Ocean Beach? 10:52:09**
9 A. Yes, it was. 10:52:11
10 **Q. Other than the employment positions 10:52:11**
11 **that we have just been discussing, have you 10:52:14**
12 **held any other employment? 10:52:16**
13 MR. NOVIKOFF: Objection. 10:52:18
14 A. I was chief of the Fire Department. 10:52:19
15 **Q. Is that the Fire Department in -- 10:52:22**
16 A. Ocean Beach Fire Department. 10:52:24
17 **Q. During what period were you chief of 10:52:25**
18 **the Ocean Beach Fire Department? 10:52:27**
19 A. Early '80s. I'm not sure of the 10:52:29
20 dates. 10:52:36
21 **Q. Is there currently a chief of the 10:52:37**
22 **Ocean Beach Fire Department? 10:52:40**
23 A. Yes, there is. 10:52:41
24 **Q. Who is that person? 10:52:41**
25 A. Robert Thornberg. 10:52:42
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1 Loeffler
2 **Q. And when you became mayor of Ocean 10:52:50**
3 **Beach on July 3rd, 2006, did you also at that 10:52:55**
4 **time become police commissioner in Ocean Beach? 10:52:57**
5 MR. NOVIKOFF: Objection. Form. 10:53:00
6 A. I became the person in charge of the 10:53:05
7 Police Department, yes, I did. 10:53:06
8 **Q. And was there any formal title in 10:53:07**
9 **connection with your being the person in charge 10:53:10**
10 **of the Police Department? 10:53:11**
11 MR. NOVIKOFF: Objection to form. 10:53:12
12 A. Besides the title bestowed upon me 10:53:13
13 by Village law and general municipal law, no. 10:53:18
14 **Q. And what title are you referring to? 10:53:21**
15 A. Well, the mayor of the Village is 10:53:22
16 the chief operating officer of a Village 10:53:24
17 according to Village law and he is in charge of 10:53:26
18 all departments. 10:53:29
19 **Q. And at the time that you first 10:53:37**
20 **became mayor, other than yourself who was the 10:53:39**
21 **most senior official with responsibility for 10:53:43**
22 **the Ocean Beach Police Department? 10:53:46**
23 MR. NOVIKOFF: Senior in terms of 10:53:47
24 age, senior in terms of years, senior in 10:53:48
25 terms of experience? 10:53:50
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1 Loeffler
2 MR. GRAFF: Organizational 10:53:51
3 hierarchy. 10:53:53
4 MR. NOVIKOFF: All right. 10:53:54
5 You can answer. 10:53:55
6 A. Chief Edward Paradiso was the chief 10:53:56
7 of police. 10:53:58
8 **Q. And is Mr. Paradiso still the chief 10:53:59**
9 **of police? 10:54:01**
10 A. No, he is not. 10:54:01
11 **Q. When did he stop serving as chief of 10:54:02**
12 **police? 10:54:04**
13 MR. NOVIKOFF: Objection to the 10:54:06
14 form. 10:54:07
15 You can answer the question. 10:54:08
16 A. He retired in 2008, I think. 10:54:09
17 **Q. And was Chief Paradiso actively 10:54:16**
18 **serving in the capacity of chief of police 10:54:19**
19 **through his retirement in July 2008? 10:54:21**
20 MR. NOVIKOFF: Objection to the form 10:54:22
21 of the question. I don't know what you 10:54:23
22 mean by "actively." 10:54:26
23 MR. GRAFF: On a day-to-day basis. 10:54:28
24 MR. NOVIKOFF: Still, form. 10:54:29
25 **Q. Are you able to answer the question 10:54:35**
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1 Loeffler
2 **in the Village of Ocean Beach would be the next 10:55:36**
3 **highest-ranking official with oversight over 10:55:41**
4 **the Police Department? 10:55:43**
5 MR. NOVIKOFF: Presently? 10:55:44
6 MR. GRAFF: Presently. 10:55:45
7 MR. NOVIKOFF: As Mr. Loeffler sits 10:55:46
8 here today. Okay. 10:55:49
9 A. George Hesse. 10:55:50
10 **Q. And when you first became mayor, was 10:55:53**
11 **Chief Paradiso -- had he already sustained his 10:55:58**
12 **injury? 10:56:01**
13 A. No. I was a little quick to say 10:56:01
14 that. I'm not positive. 10:56:08
15 **Q. During the period when Chief 10:56:09**
16 **Paradiso was actively serving as chief of 10:56:16**
17 **police, in what capacity was George Hesse 10:56:20**
18 **employed at the Ocean Beach Police Department? 10:56:23**
19 MR. NOVIKOFF: I am going to object 10:56:24
20 to the form of the question. 10:56:25
21 You can answer that. 10:56:26
22 A. He was employed as a sergeant. 10:56:27
23 **Q. Is there currently anyone who is 10:56:37**
24 **employed as sergeant in the Ocean Beach Police 10:56:39**
25 **Department? 10:56:42**
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1 Loeffler
2 **as I have stated it? 10:54:36**
3 A. Restate the question for me, please. 10:54:38
4 **Q. Was Chief Paradiso actively serving 10:54:40**
5 **in the capacity of chief of police on a 10:54:43**
6 **day-to-day basis until his retirement in 2008? 10:54:46**
7 MR. NOVIKOFF: Objection to the 10:54:49
8 form. 10:54:49
9 You can answer. 10:54:50
10 A. No, he was not. 10:54:50
11 **Q. At what point in time did he stop 10:54:52**
12 **actively serving on a day-to-day basis? 10:54:54**
13 A. I'm not sure it was '06 or '07, he 10:54:56
14 became injured in the line of duty. 10:55:03
15 **Q. Do you recall what the nature of his 10:55:07**
16 **injury was? 10:55:09**
17 A. He had a torn Achilles tendon. 10:55:09
18 **Q. Do you know how he tore that 10:55:15**
19 **Achilles tendon? 10:55:16**
20 A. I am not positive of that. 10:55:17
21 **Q. Other than -- strike that. 10:55:18**
22 **Is there currently a chief of police 10:55:27**
23 **in Ocean Beach? 10:55:29**
24 A. No, there is not. 10:55:30
25 **Q. Other than yourself, who, if anyone, 10:55:31**
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1 Loeffler
2 A. No, there is not. 10:56:42
3 **Q. Is George Hesse still a sergeant 10:56:43**
4 **with the Ocean Beach Police Department? 10:56:50**
5 A. No, he is not. 10:56:51
6 **Q. At what point in time did George 10:56:52**
7 **Hesse stop serving in the capacity of sergeant? 10:56:54**
8 A. I don't recall. 10:56:57
9 **Q. Do you recall -- strike that. Did 10:57:08**
10 **you participate -- strike that. 10:57:12**
11 MR. NOVIKOFF: I eagerly await the 10:57:28
12 question. 10:57:30
13 **Q. Did George Hesse, to your knowledge, 10:57:32**
14 **voluntarily decide to stop serving as sergeant 10:57:35**
15 **at that time? 10:57:38**
16 MR. NOVIKOFF: Objection. 10:57:40
17 A. No, he did not. 10:57:48
18 **Q. Did you direct that George Hesse 10:57:49**
19 **should stop serving as police sergeant at that 10:57:52**
20 **time? 10:57:55**
21 MR. NOVIKOFF: Again, if the 10:57:55
22 conversations involve an attorney present 10:58:00
23 at the time you had any communications with 10:58:04
24 Mr. Hesse, then I am going to instruct you 10:58:06
25 not to answer the question. 10:58:09
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1 Loeffler
2 **Q. Other than in the presence of 10:58:12**
3 **counsel, did you direct anyone in substance or 10:58:14**
4 **to the effect that George Hesse should no 10:58:19**
5 **longer continue to serve as police sergeant? 10:58:22**
6 MR. NOVIKOFF: I am going to object 10:58:25
7 to the form of the question. 10:58:27
8 A. George Hesse was placed, I don't 10:58:28
9 remember the date, on what I determined to be a 10:58:30
10 modified duty assignment. 10:58:33
11 **Q. And why did you place him on a 10:58:37**
12 **modified duty assignment at that time? 10:58:39**
13 MR. NOVIKOFF: Objection. To the 10:58:41
14 extent the reasons entail communications 10:58:42
15 with counsel, I am going to instruct you 10:58:46
16 not to answer the question. 10:58:47
17 A. It was done under advice of counsel. 10:58:49
18 **Q. Do you know when George Hesse began 10:58:51**
19 **working in the Ocean Beach Police Department? 10:58:55**
20 A. No, I do not. 10:58:58
21 **Q. Was George Hesse already working in 10:58:59**
22 **the Ocean Beach Police Department when you 10:59:03**
23 **began serving as trustee? 10:59:05**
24 A. Yes. 10:59:07
25 **Q. Was George Hesse ever promoted in 10:59:08**
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1 Loeffler
2 **connection with his employment at Ocean Beach 10:59:15**
3 **subsequent to the time that you first became 10:59:18**
4 **trustee? 10:59:20**
5 MR. NOVIKOFF: Objection to the 10:59:20
6 form. I don't know what the term 10:59:21
7 "promoted" means. I mean, did his 10:59:28
8 responsibilities increase, that's fine. 10:59:31
9 Did his title change, that's fine. I'm not 10:59:32
10 sure what "promoted" means in the context 10:59:35
11 in which we are talking about. 10:59:37
12 **Q. Mayor Loeffler, did you 10:59:38**
13 **understand -- 10:59:39**
14 A. No, I do not. 10:59:40
15 **Q. Do you know what "promoted" means? 10:59:41**
16 A. Yes. 10:59:43
17 **Q. Okay. And what's your understanding 10:59:43**
18 **of "promoted," please? 10:59:46**
19 A. Elevated in rank. 10:59:47
20 **Q. And was George Hesse -- going with 10:59:49**
21 **that definition, was George Hesse promoted -- 10:59:51**
22 A. George Hesse was given a different 10:59:54
23 rank, yes, he was. 10:59:56
24 **Q. And was it a higher rank than the 10:59:57**
25 **rank that he had held? 10:59:59**
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1 Loeffler
2 A. Yes. 11:00:00
3 **Q. And from what rank to what rank did 11:00:01**
4 **he move? 11:00:04**
5 A. He went from being a sergeant to 11:00:04
6 being the deputy chief of police. 11:00:07
7 **Q. And were you responsible for that 11:00:09**
8 **promotion? 11:00:12**
9 A. Partially, yes. 11:00:13
10 **Q. And what was your role in connection 11:00:14**
11 **with that promotion? 11:00:16**
12 A. I made a motion to elevate him to 11:00:17
13 that level. 11:00:19
14 **Q. Why did you make that motion? 11:00:19**
15 A. Because he had taken on the duties 11:00:22
16 and responsibilities of the police chief while 11:00:23
17 he was on 207C. 11:00:27
18 THE COURT REPORTER: I'm sorry, 11:00:32
19 "while he was on" -- 11:00:32
20 A. 207C. Injured in the line of duty. 11:00:32
21 MR. NOVIKOFF: "He" being 11:00:35
22 Mr. Paradiso? 11:00:37
23 THE WITNESS: Yes. 11:00:37
24 **Q. Prior to George Hesse -- you making 11:00:41**
25 **that motion to promote George Hesse, did you 11:00:45**
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1 Loeffler
2 **have any conversations with anyone concerning 11:00:48**
3 **the possibility of giving him that promotion? 11:00:50**
4 MR. NOVIKOFF: Other than counsel, 11:00:52
5 right? 11:00:55
6 A. It was discussed during executive 11:00:56
7 session with counsel present. 11:00:58
8 MR. NOVIKOFF: Well, here is the 11:01:02
9 delineation that Judge Boyle has made in 11:01:03
10 this case, and tell me if I am wrong. If 11:01:05
11 the discussion was had among trustees but 11:01:08
12 the purpose of the discussion was not to 11:01:12
13 seek legal counsel, then you have to answer 11:01:14
14 it. If the discussion was had for the 11:01:16
15 purpose of seeking legal counsel with 11:01:19
16 regard to any issue, then I am going to 11:01:21
17 instruct you not to answer. 11:01:24
18 A. I think it was discussed that since 11:01:27
19 he was taking on the responsibility, we would 11:01:30
20 give him the designation. 11:01:31
21 **Q. And who specifically on the Board of 11:01:33**
22 **Trustees was involved in that discussion? 11:01:35**
23 A. Everyone. 11:01:37
24 **Q. And was it discussed by the Board of 11:01:39**
25 **Trustees on more than one occasion? 11:01:41**
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1 Loeffler
2 A. Yes. 11:01:43
3 **Q. On how many occasions was it 11:01:49**
4 **discussed by the Board of Trustees? 11:01:51**
5 A. Two that I remember. 11:01:54
6 **Q. And in substance, what was discussed 11:01:55**
7 **on the first occasion? 11:01:58**
8 A. The role that Chief Paradiso was 11:02:00
9 playing in the Police Department at that time, 11:02:06
10 that he wasn't available, and that George had 11:02:08
11 taken on the responsibilities of the Police 11:02:11
12 Department and that the thought was that we 11:02:18
13 would recognize those responsibilities through 11:02:23
14 elevating him to deputy chief of police, and at 11:02:26
15 the next meeting I believe we did that. 11:02:29
16 **Q. And who were the members of the 11:02:34**
17 **Board of Trustees during -- on the first 11:02:36**
18 **occasion? 11:02:38**
19 A. The same ones that were there on the 11:02:38
20 second occasion. 11:02:41
21 **Q. And can you identify those members, 11:02:42**
22 **please? 11:02:43**
23 A. It was myself, Jim Mallott, Steve 11:02:44
24 Einig, Bill Wingate and Mayor Rogers was the 11:02:50
25 composition of the board at that time when the 11:02:56
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1 Loeffler
2 decision was made. 11:02:58
3 **Q. And were any of those members of the 11:03:01**
4 **Board of Trustees that you just identified at 11:03:03**
5 **that time serving as police commissioner in 11:03:06**
6 **Ocean Beach? 11:03:09**
7 A. No, they were not. 11:03:09
8 **Q. Did any of those members of the 11:03:11**
9 **Board of Trustees that you have identified have 11:03:13**
10 **any responsibility with respect to the Ocean 11:03:17**
11 **Beach Police Department? 11:03:19**
12 MR. NOVIKOFF: Objection to the form 11:03:23
13 of the question. 11:03:24
14 A. I don't understand what you mean by 11:03:29
15 "responsibility." 11:03:30
16 **Q. Let me ask a slightly different 11:03:31**
17 **question. Did any of the members of the Board 11:03:33**
18 **of Trustees have more responsibility than any 11:03:36**
19 **of the other members over the Ocean Beach 11:03:37**
20 **Police Department? 11:03:40**
21 MR. NOVIKOFF: Same objection. 11:03:41
22 You can answer, if you understand 11:03:43
23 it. 11:03:44
24 A. No, no one had any more 11:03:47
25 responsibility. 11:03:48
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1 Loeffler
2 **Q. So Trustee Mallott didn't have any 11:03:49**
3 **more responsibility than any of the other 11:03:51**
4 **trustees? 11:03:53**
5 A. Correct. 11:03:53
6 **Q. And what, if any, was Mayor Rogers' 11:03:58**
7 **responsibility over the Police Department at 11:04:02**
8 **that time? 11:04:04**
9 MR. NOVIKOFF: Objection to the 11:04:04
10 form. 11:04:06
11 You can answer. 11:04:06
12 A. As the chief operating officer of 11:04:07
13 the Village of Ocean Beach, Village law makes 11:04:10
14 her the ex facto head of all departments. 11:04:14
15 **Q. Are you aware of any investigation 11:04:28**
16 **conducted by any member of the Board of 11:04:31**
17 **Trustees concerning Edward Paradiso at or 11:04:34**
18 **around the time that George Hesse received that 11:04:38**
19 **promotion? 11:04:40**
20 MR. NOVIKOFF: Objection to the form 11:04:41
21 of the question. There is a lot of 11:04:42
22 problems with that question. 11:04:48
23 A. You have to be a little more 11:04:55
24 specific about the time frame, I believe. Do 11:04:57
25 you want to give me some dates? 11:04:59
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1 Loeffler
2 **Q. In the year prior to the promotion, 11:05:05**
3 **if that would help. 11:05:08**
4 A. In the year prior to promotion -- 11:05:10
5 **Q. Are you aware of any investigation 11:05:13**
6 **conducted by any member of the Board of 11:05:16**
7 **Trustees concerning Ed Paradiso? 11:05:19**
8 MR. NOVIKOFF: Objection to the form 11:05:21
9 of the question. 11:05:22
10 A. I am not aware. 11:05:23
11 **Q. Are you aware of any investigation 11:05:25**
12 **conducted or overseen by Mayor Rogers with 11:05:28**
13 **respect to Chief Paradiso in the year leading 11:05:31**
14 **up to George Hesse's promotion? 11:05:34**
15 MR. NOVIKOFF: Objection. Again, 11:05:36
16 I'm not trying to be difficult. Are you 11:05:38
17 asking about an investigation done by Mayor 11:05:40
18 Rogers as an individual or Mayor Rogers as 11:05:43
19 the mayor on behalf of the trustees or the 11:05:45
20 Village? 11:05:48
21 MR. GRAFF: Any investigation that 11:05:49
22 he is aware of by Mayor Rogers in her 11:05:50
23 individual or official capacities. 11:05:52
24 MR. NOVIKOFF: I am going to object 11:05:54
25 to form. 11:05:55
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1 Loeffler
2 You can answer the question. 11:05:55
3 A. Yes. 11:05:56
4 **Q. And what investigation were you 11:05:57**
5 **aware of? 11:05:59**
6 A. Mayor Rogers conducted an 11:05:59
7 investigation that was brought to her attention 11:06:01
8 about some outside employment that Chief 11:06:04
9 Paradiso was involved in while employed by the 11:06:07
10 Village of Ocean Beach. 11:06:09
11 **Q. And is there any policy at Ocean 11:06:11**
12 **Beach that would prohibit an employee of Ocean 11:06:16**
13 **Beach from having contemporaneous employment 11:06:18**
14 **with another entity? 11:06:21**
15 A. You have to give me a time frame. 11:06:23
16 **Q. At the time that we are discussing, 11:06:26**
17 **which is in the year leading up to -- 11:06:29**
18 A. No, there was no prohibition. 11:06:31
19 **Q. Is there presently any prohibition? 11:06:36**
20 A. No prohibition, but there is -- now 11:06:39
21 there is a notification requirement. 11:06:41
22 **Q. And do you know who brought the 11:06:42**
23 **issue of George Hesse's dual employment to 11:06:50**
24 **Mayor Rogers' attention? 11:06:54**
25 MR. NOVIKOFF: Unless it was through 11:06:56
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1 Loeffler
2 counsel's communication -- 11:06:59
3 A. No, excuse me, George Hesse was not 11:07:00
4 under -- Mayor Rogers didn't investigate George 11:07:02
5 Hesse. 11:07:05
6 **Q. I'm sorry, I believe I misspoke. 11:07:05**
7 A. You did misspeak. 11:07:07
8 **Q. Okay. Do you know who brought the 11:07:09**
9 **issue of Ed Paradiso's dual employment to Mayor 11:07:10**
10 **Rogers's attention? 11:07:14**
11 A. No. 11:07:14
12 MR. NOVIKOFF: And the answer is yes 11:07:14
13 or no. 11:07:15
14 A. I do not. 11:07:16
15 **Q. And do you know what the nature of 11:07:17**
16 **the investigation was? 11:07:22**
17 MR. NOVIKOFF: Again, yes or no. 11:07:25
18 A. Yes. 11:07:26
19 **Q. And what was the nature of the 11:07:26**
20 **investigation? 11:07:28**
21 MR. NOVIKOFF: Objection to the 11:07:30
22 form. 11:07:31
23 You can answer. 11:07:31
24 A. There was some question about his 11:07:31
25 hours of employment conflicting with the hours 11:07:34
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1 Loeffler
2 of employment at his second job. 11:07:36
3 **Q. When you say "conflicting," do you 11:07:38**
4 **mean that he was simultaneously working hours 11:07:40**
5 **in both places? 11:07:43**
6 A. Is that what you are asking me? 11:07:44
7 **Q. Yes. 11:07:45**
8 MR. NOVIKOFF: Objection to his 11:07:45
9 knowledge of specifically what Mr. Paradiso 11:07:47
10 did or -- 11:07:49
11 MR. GRAFF: You know what, strike 11:07:50
12 that. 11:07:50
13 **Q. What is the nature of the 11:07:50**
14 **conflicting hours that you are referring to? 11:07:52**
15 MR. NOVIKOFF: Objection to the 11:07:53
16 extent you know specifically what the 11:07:54
17 conflicting hours were. 11:07:56
18 A. I don't. I don't know what the 11:07:58
19 conflicting hours were. 11:08:00
20 **Q. Do you know if there was any 11:08:02**
21 **conclusion on the basis of that investigation? 11:08:05**
22 MR. NOVIKOFF: Conclusion of what, 11:08:08
23 the investigation or anything else after 11:08:09
24 the investigation? 11:08:11
25 MR. GRAFF: Anything that was 11:08:11
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1 Loeffler
2 concluded based on what was discovered 11:08:13
3 during the investigation. 11:08:15
4 MR. NOVIKOFF: I am going to object 11:08:17
5 to the form. Ari, you know what's going 11:08:19
6 on. I think the questions -- I mean, I am 11:08:21
7 not objecting on the questions. I am just 11:08:23
8 saying you kind of know what has proceeded 11:08:25
9 between Mr. Paradiso and the Village, I 11:08:27
10 would hope you know, so you could ask the 11:08:29
11 questions a little bit more focussed and 11:08:31
12 get the answers. Objection to form. 11:08:33
13 You can answer. 11:08:34
14 A. I believe those were privileged 11:08:36
15 communications that transpired and I don't 11:08:39
16 think I am at liberty to speak about those. 11:08:41
17 **Q. So those are conversations that 11:08:44**
18 **happened in the presence of counsel for legal 11:08:45**
19 **advice? 11:08:47**
20 A. Absolutely. 11:08:47
21 **Q. Okay. Do you know whether anyone on 11:08:48**
22 **the Board of Trustees had any direct 11:08:51**
23 **communication with Ed Paradiso concerning that 11:08:54**
24 **investigation? 11:08:56**
25 A. I do not. 11:08:57
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1 Loeffler
2 **Q. Do you know whether Ed Paradiso ever** 11:08:59
3 **expressed any opinion as to the promotion of** 11:09:07
4 **George Hesse to the position of sergeant at** 11:09:12
5 **that time?** 11:09:15
6 MR. NOVIKOFF: Objection. 11:09:15
7 A. He never expressed an opinion to me. 11:09:18
8 **Q. Did anyone ever communicate to you** 11:09:21
9 **that Ed Paradiso had expressed to them an** 11:09:24
10 **opinion about George Hesse's promotion?** 11:09:27
11 MR. NOVIKOFF: If you could follow 11:09:30
12 it, you could answer it. 11:09:31
13 A. Did anyone ever express to me that 11:09:33
14 they talked to somebody that talked to Ed 11:09:37
15 Paradiso that may have had an opinion about 11:09:39
16 whether he was promoted? Is that what you 11:09:40
17 asked me? 11:09:43
18 **Q. Let me ask it more specifically.** 11:09:43
19 A. Okay. 11:09:45
20 **Q. Did Mayor Rogers indicate to you** 11:09:46
21 **that she was aware of Ed Paradiso's opinion** 11:09:47
22 **with respect to George Hesse's promotion?** 11:09:50
23 A. She never communicated that with me. 11:09:52
24 **Q. At that time were you aware from any** 11:09:54
25 **source whether George -- whether Ed Paradiso** 11:10:07
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1 Loeffler
2 **had an opinion concerning George Hesse's** 11:10:12
3 **promotion?** 11:10:14
4 MR. NOVIKOFF: Objection. 11:10:15
5 A. I think I already answered that. I 11:10:15
6 have no -- 11:10:18
7 **Q. As you sit here today, do you know** 11:10:18
8 **what Ed Paradiso's opinion was at that time?** 11:10:20
9 MR. NOVIKOFF: At what time? An 11:10:23
10 opinion about what? 11:10:25
11 MR. GRAFF: At the time of the 11:10:26
12 promotion, his opinion -- 11:10:27
13 MR. NOVIKOFF: About? 11:10:27
14 MR. GRAFF: -- about the promotion. 11:10:28
15 MR. NOVIKOFF: So you are asking 11:10:29
16 does this witness -- you know what, form. 11:10:30
17 Objection. 11:10:33
18 You can answer. 11:10:33
19 A. I don't know. 11:10:34
20 MR. GRAFF: Can I ask the 11:10:42
21 videographer how much time we have left on 11:10:43
22 this tape? 11:10:46
23 THE VIDEOGRAPHER: About 22 minutes. 11:10:46
24 **Q. I had asked the court reporter to** 11:10:54
25 **mark as Loeffler Exhibit 2 a document in this** 11:10:55
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1 Loeffler
2 **case that's headed Ocean Beach Defendants'** 11:10:59
3 **Response to Plaintiffs' First Set of** 11:11:04
4 **Interrogatories. If I could ask you to take a** 11:11:06
5 **look at the document, Mayor Loeffler, and tell** 11:11:08
6 **me, please, if this is a document that you have** 11:11:11
7 **seen before.** 11:11:12
8 MR. NOVIKOFF: Look at it as 11:11:19
9 thoroughly as you need to in order to 11:11:21
10 answer the question (handing). 11:11:23
11 While you are looking at the 11:12:03
12 document, I am going to get a cup of 11:12:05
13 coffee. 11:12:08
14 (Document review.) 11:12:58
15 A. Okay, I have reviewed it. 11:13:55
16 MR. NOVIKOFF: And the question is 11:14:58
17 does he recognize the document? 11:14:59
18 MR. GRAFF: Yes. 11:15:01
19 A. As it's shown to me, yes, I 11:15:02
20 recognize it. 11:15:05
21 **Q. When did you see this document** 11:15:06
22 **first?** 11:15:07
23 MR. NOVIKOFF: Objection. He didn't 11:15:08
24 testify that he has seen it before today. 11:15:10
25 He just says he recognizes the document. 11:15:13
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1 Loeffler
2 **Q. Did you see the document before** 11:15:15
3 **today?** 11:15:16
4 A. I don't remember seeing this 11:15:17
5 document. I didn't sign it, so I don't know if 11:15:18
6 I reviewed -- I don't know. I don't remember 11:15:24
7 seeing that document. I do now recall now that 11:15:27
8 we had a different law firm. 11:15:27
9 THE COURT REPORTER: I can't hear 11:15:27
10 you. I'm sorry. 11:15:27
11 A. I do recall now after reading this 11:15:30
12 that we had a different law firm representing 11:15:32
13 us in the beginning. Now I remember it was 11:15:34
14 Anthony Marino. 11:15:37
15 **Q. Okay. There are some numbered** 11:15:39
16 **statements in the document. If I could turn** 11:15:41
17 **your attention to the statement numbered 9.** 11:15:43
18 MR. NOVIKOFF: Okay. What's the 11:15:45
19 question? 11:15:46
20 MR. GRAFF: I'd like to ask Mayor 11:15:47
21 Loeffler to please read it. 11:15:49
22 MR. NOVIKOFF: The document speaks 11:15:50
23 for itself, Ari. We don't need to read it 11:15:51
24 into the record and burden the transcript. 11:15:53
25 **Q. "The persons involved with the** 11:15:56
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1 Loeffler
2 decision to hire employees were the Suffolk 11:15:58
3 County Civil Service Commission and the Ocean 11:15:59
4 Beach Board of Trustees." 11:16:02
5 Mayor Loeffler, during your service 11:16:03
6 as trustee at Ocean Beach, was it the case that 11:16:05
7 the persons involved with this decision to hire 11:16:08
8 employees in Ocean Beach were the Suffolk 11:16:10
9 County Civil Service Commission and Ocean Beach 11:16:13
10 Board of Trustees? 11:16:15
11 MR. NOVIKOFF: Hold on. I am going 11:16:16
12 to object to the form of the question and I 11:16:17
13 do think I need to explain why I am 11:16:19
14 objecting, because there is a number of 11:16:22
15 reasons and I don't know if this witness 11:16:24
16 could even answer the question in this 11:16:25
17 form. 11:16:26
18 One, you have read into the record 11:16:27
19 an answer, but the document doesn't have 11:16:28
20 the question on it, so I think it would be 11:16:30
21 important if you are going to read 11:16:33
22 something in as an answer, to show the 11:16:34
23 question. 11:16:36
24 Secondly, talking about persons 11:16:37
25 involved with the decision to hire 11:16:40
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1 Loeffler
2 employees. I don't know who employees 11:16:41
3 refer to. If you are referring to some of 11:16:43
4 the plaintiffs in this action, I think, if 11:16:45
5 I understand the record correctly, some of 11:16:48
6 the plaintiffs were hired back in the early 11:16:50
7 1990s, so the question is whether this 11:16:53
8 witness even has an understanding as to 11:16:55
9 when at least some of these witnesses were 11:16:58
10 hired as to who was involved. 11:16:59
11 So that's the objection, but 11:17:01
12 proceed. 11:17:03
13 Q. Okay. Well, since the document is 11:17:03
14 not in front of the witness, I am going to 11:17:04
15 represent that the question I am about to read 11:17:06
16 is the question to which the statement 11:17:08
17 responds. Interrogatory No. 9. I'm reading 11:17:10
18 from Plaintiffs' First Set of Interrogatories 11:17:14
19 to Defendants' Incorporated Village of Ocean 11:17:16
20 Beach, Mayor Joseph C. Loeffler, Jr., Former 11:17:19
21 Mayor Natalie K. Rogers, and Ocean Beach Police 11:17:22
22 Department dated July 11th, 2007. 11:17:25
23 Interrogatory No. 9 reads: 11:17:29
24 "Identify each and every person responsible for 11:17:31
25 hiring employees including but not limited to 11:17:34
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1 Loeffler
2 police officers, police dispatchers and dock 11:17:37
3 masters at Ocean Beach and/or OBPD from 2000 to 11:17:40
4 the present, including the role of each person 11:17:47
5 identified in your response." 11:17:49
6 MR. NOVIKOFF: So now what's the 11:17:50
7 question? 11:17:51
8 Q. The question is, Mayor Loeffler, is 11:17:52
9 it a -- as you understand it, is it an accurate 11:17:55
10 response that the persons involved with the 11:18:00
11 decision to hire employees were the Suffolk 11:18:02
12 County Civil Service Commission and the Ocean 11:18:04
13 Beach Board of Trustees? 11:18:06
14 MR. NOVIKOFF: You are asking this 11:18:07
15 witness to testify as to whether response 11:18:08
16 number 9 is accurate to the question that 11:18:14
17 you just presented? 11:18:16
18 MR. GRAFF: Yes. 11:18:18
19 MR. NOVIKOFF: I am going to object 11:18:19
20 to the form. 11:18:20
21 You can answer, if you want. 11:18:21
22 A. Yes, it is true, it's accurate. 11:18:23
23 THE COURT REPORTER: I'm sorry? 11:18:23
24 A. Yes, it is accurate. 11:18:33
25 Q. Interrogatory No. 12 states: 11:18:33
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1 Loeffler
2 "Identify and describe any and all policies 11:18:36
3 concerning the consumption of alcoholic 11:18:39
4 beverages by on-duty or off-duty OBPD officers 11:18:42
5 in Ocean Beach from 2000 to the present." 11:18:46
6 The response states: "There is a 11:18:49
7 policy in place that prohibits the consumption 11:18:50
8 of alcoholic beverages by officers on duty." 11:18:52
9 Mayor Loeffler, are you familiar 11:18:56
10 with the policy in place in Ocean Beach that 11:18:58
11 prohibits the consumption of alcoholic 11:19:02
12 beverages by officers on duty? 11:19:03
13 A. Yes, I am. 11:19:03
14 Q. And can you describe that policy? 11:19:06
15 A. It's the 2006 policy manual of the 11:19:07
16 Ocean Beach Police Department which prohibits 11:19:13
17 the consumption of alcoholic beverages on duty. 11:19:14
18 Q. And when did that policy manual take 11:19:17
19 effect? 11:19:20
20 A. 2006. 11:19:20
21 Q. Okay. Prior to the implementation 11:19:21
22 of that policy in 2006, was there any policy 11:19:27
23 that prohibited the consumption of alcoholic 11:19:30
24 beverages by on- or off-duty officers in Ocean 11:19:33
25 Beach? 11:19:35
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1 **Loeffler**
2 MR. NOVIKOFF: I am going to object 11:19:35
3 to the form of the question. Foundation. 11:19:36
4 You can answer. 11:19:39
5 A. I don't know if I have ever read the 11:19:40
6 prior policy manual. I don't know if there was 11:19:44
7 one in existence, a policy manual for the Ocean 11:19:47
8 Beach Police Department. 11:19:49
9 **Q. Are you aware of any informal policy 11:19:50**
10 **that would have been applicable at that time? 11:19:52**
11 MR. NOVIKOFF: Objection to the form 11:19:54
12 of the question. 11:19:55
13 You can answer. 11:19:57
14 A. Informal policy? I don't know what 11:19:57
15 exactly you mean. Do -- 11:20:05
16 MR. NOVIKOFF: No, no, no. 11:20:09
17 **Q. If you are unclear on the 11:20:10**
18 **question -- 11:20:13**
19 A. I am unclear. 11:20:13
20 MR. NOVIKOFF: He just said he 11:20:13
21 doesn't -- 11:20:14
22 **Q. Could you explain what part of the 11:20:14**
23 **question is unclear to you? 11:20:17**
24 MR. NOVIKOFF: As opposed to the 11:20:18
25 entire question. 11:20:20
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1 **Loeffler**
2 A. I'm not familiar with the policy or 11:20:21
3 the policy manual that was in existence prior 11:20:24
4 to 2006. That's what you are asking me to 11:20:28
5 testify about; is that correct? 11:20:30
6 **Q. Yes, let me go on. Maybe I can be 11:20:31**
7 **more clear. 11:20:33**
8 **Other than the policy manual that 11:20:34**
9 **you are referring to, is there any other 11:20:35**
10 **written policy applicable to the operations of 11:20:38**
11 **the Ocean Beach Police Department? 11:20:42**
12 MR. NOVIKOFF: Wait. Now? 11:20:43
13 MR. GRAFF: Now, yes. 11:20:46
14 MR. NOVIKOFF: Are there any other 11:20:47
15 written policies applicable to the Ocean 11:20:48
16 Beach Police Department right now? 11:20:51
17 MR. GRAFF: To the operations of the 11:20:51
18 Police Department other than the policy 11:20:53
19 manual, yes. 11:20:54
20 MR. NOVIKOFF: Okay. 11:20:55
21 A. I have no knowledge of the sum and 11:20:57
22 substance of the policy manual prior to 2006. 11:21:00
23 **Q. Interrogatory No. 19, and if you 11:21:04**
24 **would like to follow it, the response also 11:21:07**
25 **number 19 in what's been marked as Loeffler 3, 11:21:11**
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1 **Loeffler**
2 **interrogatory 19 reads: "Describe the 11:21:14**
3 **qualifications" -- 11:21:16**
4 MR. NOVIKOFF: Wait. Wait did you 11:21:18
5 just mark what you are reading as 3, as 11:21:19
6 Loeffler 3? Because all you have given me 11:21:22
7 is Loeffler 2. 11:21:24
8 MR. GRAFF: I'm sorry, the response 11:21:25
9 is in Loeffler 2. 11:21:26
10 MR. NOVIKOFF: Okay. So you are 11:21:27
11 reading from another document? 11:21:28
12 MR. GRAFF: I am reading from 11:21:29
13 Plaintiffs' Interrogatories. 11:21:31
14 **Q. "Describe the qualifications, tests, 11:21:31**
15 **criteria, training, experience and 11:21:34**
16 **certifications including but not limited to 11:21:36**
17 **Civil Service certification necessary to become 11:21:38**
18 **and/or remain employed as a police officer at 11:21:42**
19 **OBDP." 11:21:44**
20 **Mayor Loeffler, were you able to 11:21:46**
21 **follow the question that I just read? 11:21:47**
22 A. Yes. 11:21:49
23 MR. NOVIKOFF: You mean was he able 11:21:50
24 to listen to what you just said? 11:21:51
25 MR. GRAFF: It was a long sentence. 11:21:53
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1 **Loeffler**
2 I wanted to make sure that it was clear 11:21:54
3 from beginning to end. 11:21:56
4 MR. NOVIKOFF: Okay. 11:21:57
5 **Q. Response number 19 states: "All 11:21:57**
6 **officers are hired pursuant to the rules and 11:21:59**
7 **qualifications of the Suffolk County Civil 11:22:01**
8 **Service Department." 11:22:03**
9 **Mayor Loeffler, as of the date of 11:22:04**
10 **this response, November 9th, 2007, was that an 11:22:06**
11 **accurate statement? 11:22:09**
12 MR. NOVIKOFF: Objection. 11:22:09
13 A. Yes, it was. 11:22:11
14 **Q. And would that statement be accurate 11:22:14**
15 **with respect to the entire period during which 11:22:16**
16 **you served as trustee or mayor? 11:22:20**
17 MR. NOVIKOFF: Note my objection. 11:22:22
18 A. I don't know. 11:22:23
19 MR. NOVIKOFF: He is not an expert 11:22:27
20 on the Civil Service law. 11:22:28
21 MR. GRAFF: Okay. 11:22:30
22 **Q. Interrogatory No. 22 states: 11:22:31**
23 **"Describe Defendant Loeffler's role and/or 11:22:35**
24 **responsibilities concerning the OBDP from 2000 11:22:37**
25 **to the present." 11:22:40**
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1 Loeffler
2 The response -- well, let me first 11:22:42
3 ask you what were -- what was your role or 11:22:47
4 responsibilities concerning the OBPD from 2000 11:22:51
5 to the present, if any? 11:22:53
6 MR. NOVIKOFF: If any. Okay. Note 11:22:55
7 my objection. 11:22:56
8 You can answer. 11:22:57
9 A. I was a trustee with the Village 11:22:57
10 from 2002 to 2006 and I was mayor from 2006 11:22:59
11 until the present day. 11:23:03
12 Q. Okay. So response number 22, Mayor 11:23:04
13 Joseph C. Loeffler, Jr. had no role in the 11:23:07
14 operations of the Police Department other than 11:23:09
15 as a member of the Board of Trustees and 11:23:11
16 currently as mayor of the Village." Is that -- 11:23:13
17 MR. NOVIKOFF: Object -- 11:23:16
18 A. Currently as mayor of the Village I 11:23:16
19 have a role and responsibility in the Police 11:23:18
20 Department. 11:23:20
21 Q. Okay. 11:23:21
22 MR. NOVIKOFF: Was there a question? 11:23:23
23 Because I think you were about to ask a 11:23:26
24 question and then the witness started 11:23:28
25 answering. 11:23:29
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1 Loeffler
2 THE WITNESS: Sorry. 11:23:30
3 MR. NOVIKOFF: So are you 11:23:30
4 done with -- have you completed your 11:23:31
5 question? 11:23:33
6 MR. GRAFF: There is not a question 11:23:33
7 pending at the moment. 11:23:34
8 MR. NOVIKOFF: Okay, that's fine. 11:23:35
9 THE VIDEOGRAPHER: Counselors, now 11:23:41
10 it's ten minutes until the end of tape. 11:23:43
11 MR. NOVIKOFF: Oh, that is so cool. 11:23:45
12 MR. GRAFF: Okay, so let's take a 11:23:46
13 break at this point. 11:23:49
14 THE VIDEOGRAPHER: We are now going 11:23:50
15 off the record. The time is 11:24 a.m. 11:23:53
16 (Recess was taken from 11:24 to 11:23:57
17 11:34.) 11:23:57
18 (Loeffler Exhibit 3, Incorporated 11:33:52
19 Village of Ocean Beach Board of Trustees 11:33:52
20 Meeting Held January 28, 2006, Bates 11:33:52
21 stamped 000028, marked for identification.) 11:34:07
22 THE VIDEOGRAPHER: We are back on 11:34:07
23 the record. The time is 11:34 a.m. This 11:34:13
24 is the beginning of the tape labeled 11:34:16
25 number 2. 11:34:18
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1 Loeffler
2 BY MR. GRAFF: 11:34:20
3 Q. During the break I asked the court 11:34:20
4 reporter to mark as Exhibit Loeffler 3 a 11:34:22
5 one-page document produced by Ocean Beach 11:34:24
6 bearing Bates number 28. 11:34:25
7 Mayor Loeffler, I am going to pass 11:34:28
8 you the document and when you have had a chance 11:34:30
9 to review the document, if you could tell me, 11:34:32
10 please, whether you have seen this document 11:34:34
11 before. 11:34:36
12 MR. GRAFF: Mr. Novikoff, are you 11:34:42
13 examining for accuracy? 11:34:44
14 MR. NOVIKOFF: I'm not the deponent 11:34:46
15 here. I am doing what a lawyer does, sir. 11:34:48
16 I am looking at what you have marked versus 11:34:50
17 what you have handed me, and I do note for 11:34:53
18 the record that there appears to be an 11:34:55
19 arrow handwritten in on this document and I 11:34:56
20 do not know whether that arrow was on the 11:34:59
21 document when it was produced or not, but 11:35:01
22 that could be verified. 11:35:03
23 MR. GRAFF: I can represent the 11:35:04
24 arrow was there. We didn't make that. 11:35:05
25 MR. NOVIKOFF: Okay. So the 11:35:07
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1 Loeffler
2 question is you want him to look at this 11:35:08
3 and see if he recognizes it? 11:35:10
4 MR. GRAFF: If he has seen it 11:35:11
5 before, yes. 11:35:12
6 MR. NOVIKOFF: Okay, go ahead 11:35:13
7 (handing). 11:35:14
8 (Document review.) 11:35:25
9 Q. Mayor Loeffler, have you had a 11:35:25
10 chance to look at the document? 11:35:27
11 A. Yes, I have. 11:35:28
12 Q. Do you recognize it? 11:35:29
13 MR. NOVIKOFF: Note for the record 11:35:30
14 it appears on the top of the document to be 11:35:31
15 page 8 of what apparently is minutes of a 11:35:33
16 Board of Trustee meeting held on January 11:35:36
17 28, 2006. 11:35:38
18 MR. GRAFF: And I will note that the 11:35:39
19 first seven pages weren't produced. 11:35:40
20 MR. NOVIKOFF: That's fine, just so 11:35:42
21 the record is clear what it is. 11:35:43
22 Q. Mayor Loeffler, do you recognize 11:35:45
23 this document? 11:35:47
24 A. Yes, I do. 11:35:47
25 Q. And do you recognize it to be as 11:35:48
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1 Loeffler
2 characterized by your counsel, minutes from a 11:35:50
3 Board of Trustees meeting held on January 28th, 11:35:53
4 '06, the 8th page? 11:35:55
5 MR. NOVIKOFF: That's not how I 11:35:57
6 characterized it. 11:35:58
7 Q. Do you recognize it as I have 11:35:59
8 characterized it? 11:36:02
9 A. It appears to be part of the minutes 11:36:02
10 from the board meeting of January 28th, 2006, 11:36:04
11 yes, it does. 11:36:07
12 Q. Okay. The section that's marked 11:36:08
13 with an arrow, the arrow is pointing to the 11:36:10
14 subheading designation of George Hesse as 11:36:14
15 deputy chief of police. 11:36:16
16 Do you recall whether George Hesse 11:36:17
17 was ever designated as deputy chief of police? 11:36:18
18 MR. NOVIKOFF: Objection. 11:36:20
19 A. Before this or by this document? 11:36:25
20 Q. By this document or at this time. 11:36:27
21 MR. NOVIKOFF: Doesn't the document 11:36:29
22 say designation of George Hesse as deputy 11:36:30
23 chief of police? 11:36:33
24 A. That's what it says. 11:36:34
25 Q. And was that -- is that consistent 11:36:35
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1 Loeffler
2 Wingate moved to go into executive session for 11:37:29
3 purpose of discussing personnel and litigation 11:37:31
4 matters." 11:37:33
5 Do you recall what the personnel 11:37:35
6 matters that were discussed in that executive 11:37:36
7 session were? 11:37:38
8 MR. NOVIKOFF: Again, if the 11:37:40
9 discussion was done for the purposes of 11:37:42
10 seeking legal advice with regard to any 11:37:46
11 issues, then I am going to have to instruct 11:37:48
12 him not to answer. If they were just done 11:37:51
13 as overall discussions concerning Village 11:37:53
14 matters and merely -- and just the counsel 11:37:55
15 was present because the counsel is present, 11:37:57
16 then you can answer the question. 11:38:00
17 A. I don't remember. 11:38:01
18 Q. Okay. We can put aside that 11:38:04
19 document. 11:38:07
20 Do you recall whether anyone 11:38:14
21 expressed any opposition on the Board of 11:38:15
22 Trustees to designating George Hesse as deputy 11:38:18
23 chief of police? 11:38:21
24 A. Can I review that document? 11:38:23
25 MR. NOVIKOFF: Sure. 11:38:25
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1 Loeffler
2 with what you recall happening? 11:36:38
3 A. Yes. 11:36:42
4 Q. When the document says "Trustee 11:36:43
5 Loeffler made motion to designate George Hesse 11:36:44
6 as deputy chief of police with all power and 11:36:46
7 authority involved with that position," what is 11:36:49
8 the power and authority involved with the 11:36:51
9 position of deputy chief of police? 11:36:52
10 MR. NOVIKOFF: Objection. 11:36:55
11 You can answer. 11:36:55
12 A. It would be bestowing him the same 11:36:56
13 powers as the chief of police. 11:36:59
14 Q. Thank you. 11:37:01
15 Was there a written motion that you 11:37:05
16 proposed or was this an oral motion? 11:37:07
17 MR. NOVIKOFF: Objection. Written 11:37:09
18 motion like what lawyers do? I don't know 11:37:11
19 what you mean by "written motion." 11:37:15
20 Q. When it says "Trustee Loeffler made 11:37:16
21 motion," is that something that you would have 11:37:19
22 done orally? 11:37:21
23 A. Orally. 11:37:21
24 Q. Then skip down two subheadings, it 11:37:24
25 says Executive Session, 12 p.m., "Trustee 11:37:27
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1 Loeffler
2 Q. That would refresh your 11:38:26
3 recollection? 11:38:27
4 A. Well, I am trying to see if -- 11:38:28
5 Q. Sure. 11:38:29
6 A. It says "upon call, all voted aye," 11:38:31
7 so I guess that would indicate that there was 11:38:34
8 no opposition. 11:38:36
9 Q. And before the actual voting did 11:38:37
10 anyone verbalize any objections or reservations 11:38:39
11 about designating George Hesse as -- 11:38:41
12 A. Are you asking me to testify about 11:38:43
13 this or about the actions at the meeting? 11:38:45
14 Q. The actions at the meeting. 11:38:47
15 MR. NOVIKOFF: I am going to object 11:38:48
16 to the question. Objections and 11:38:49
17 reservations have two different meanings, 11:38:50
18 so if you want to break it down, then go 11:38:53
19 ahead. I mean, I think it's clear your 11:38:55
20 Exhibit 3 indicates that it was a majority 11:38:57
21 vote, but I understand what you are asking 11:38:59
22 next, I just think the form is improper. 11:39:01
23 Q. Did anyone on the Board of Trustees 11:39:03
24 express any concerns about the designation of 11:39:14
25 George Hesse as deputy chief of police? 11:39:18
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1 Loeffler
2 MR. NOVIKOFF: Objection to the 11:39:20
3 form. 11:39:21
4 You can answer. 11:39:21
5 A. I don't recall. 11:39:22
6 Q. Do you recall whether there was a 11:39:26
7 discussion of your motion? 11:39:27
8 MR. NOVIKOFF: Objection. 11:39:31
9 Discussion by whom? 11:39:31
10 Q. Discussion by the Board of Trustees 11:39:33
11 upon the making of the motion to designate 11:39:35
12 George Hesse. 11:39:37
13 MR. NOVIKOFF: Again, I don't want 11:39:38
14 to be difficult, but I would presume that a 11:39:40
15 vote is a discussion. So I am objecting to 11:39:43
16 form. 11:39:48
17 A. The motion was presented. It was -- 11:39:48
18 a roll call was taken, a vote was made, and a 11:39:52
19 motion passed. 11:39:56
20 Q. Okay. Between the making of the 11:39:56
21 motion and the vote, did anybody say anything 11:39:59
22 with respect to the substance of the motion? 11:40:01
23 A. I don't recall. 11:40:04
24 Q. Okay. Thank you. 11:40:05
25 Have you ever heard of an entity 11:40:12
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1 Loeffler
2 called the Ocean Beach Police Benevolent 11:40:14
3 Association? 11:40:18
4 A. Yes, I have. 11:40:18
5 Q. And what is that organization? 11:40:19
6 A. I'm not sure. 11:40:20
7 Q. When did you hear of it? 11:40:23
8 A. I believe I -- some point in time I 11:40:25
9 remember getting a solicitation for funds from 11:40:27
10 that organization. 11:40:30
11 Q. And were you a trustee at that time? 11:40:30
12 A. I don't believe so. 11:40:33
13 Q. Were you a mayor at that time? 11:40:37
14 A. I don't believe so. 11:40:38
15 Q. Other than receiving a solicitation, 11:40:39
16 have you in any other contexts encountered 11:40:43
17 something called Ocean Beach Police Benevolent 11:40:48
18 Association? 11:40:52
19 A. No. 11:40:52
20 MR. NOVIKOFF: Objection. He never 11:40:52
21 said he encountered it. 11:40:53
22 MR. GRAFF: He encountered it on the 11:40:55
23 solicitation document. 11:40:57
24 MR. NOVIKOFF: If that's what you 11:40:58
25 mean by "encounter." Okay. I am going to 11:40:59
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1 Loeffler
2 object to form. 11:40:59
3 A. I have no knowledge of that 11:41:00
4 organization, truthfully. 11:41:01
5 Q. Did you respond to that solicitation 11:41:02
6 notice? 11:41:05
7 A. I don't remember. 11:41:05
8 Q. To your knowledge, in your capacity 11:41:08
9 as mayor currently, is there in existence 11:41:11
10 something called the Ocean Beach Police 11:41:15
11 Benevolent Association? 11:41:18
12 A. I don't know. 11:41:18
13 Q. Do you know anybody by the name of 11:41:32
14 Sally Hess? 11:41:34
15 MR. NOVIKOFF: How do you spell the 11:41:36
16 last name? 11:41:37
17 MR. GRAFF: H-E-S-S. 11:41:38
18 A. No, I don't. 11:41:40
19 Q. Do you know anybody by the name of 11:41:43
20 Tina Hess? 11:41:45
21 A. No, I don't. 11:41:47
22 Q. Do you know anybody by the name of 11:41:57
23 Ronnie Hess? 11:42:01
24 A. No, I don't. 11:42:02
25 Q. Mayor Loeffler, how long have you 11:42:04
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1 Loeffler
2 been a resident of Ocean Beach? 11:42:06
3 MR. NOVIKOFF: Note my objection. 11:42:11
4 You can answer. 11:42:12
5 A. 50 years, 55 years. 11:42:16
6 MR. NOVIKOFF: Is that 5-5? 11:42:18
7 THE WITNESS: 5-5. 11:42:19
8 A. Most of my life. 11:42:20
9 Q. And are you -- during those 55 11:42:21
10 years, have you been a year-round resident of 11:42:28
11 Ocean Beach? 11:42:30
12 A. Yes. 11:42:30
13 Q. Continuously for 55 years? 11:42:30
14 A. Uh-huh. 11:42:33
15 THE COURT REPORTER: You have to 11:42:33
16 answer verbally. 11:42:33
17 A. Yes. 11:42:34
18 Q. To your knowledge, has any Ocean 11:42:36
19 Beach police officer ever discharged their 11:42:43
20 firearm in a line of duty? 11:42:46
21 MR. NOVIKOFF: As an Ocean Beach 11:42:48
22 police officer? 11:42:50
23 MR. GRAFF: Yes. 11:42:51
24 MR. NOVIKOFF: Okay. 11:42:51
25 To your knowledge. 11:42:53
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1 Loeffler
2 A. None. No, not to my knowledge. 11:42:54
3 **Q. Have you ever discharged your 11:42:57**
4 **firearm in the line of duty? 11:42:58**
5 MR. NOVIKOFF: As an Ocean Beach 11:43:00
6 police officer? 11:43:01
7 MR. GRAFF: Ever. 11:43:01
8 MR. NOVIKOFF: Oh, okay. 11:43:01
9 A. Yes. 11:43:03
10 **Q. On how many occasions has that 11:43:05**
11 **happened? 11:43:07**
12 A. One. 11:43:08
13 **Q. And who were you shooting at on that 11:43:12**
14 **occasion? 11:43:14**
15 A. A perpetrator. 11:43:16
16 **Q. When did that take place? 11:43:17**
17 A. 1975. 11:43:20
18 **Q. Have you ever shot anyone? 11:43:21**
19 MR. NOVIKOFF: Objection. When you 11:43:32
20 mean shot at someone, you mean where the 11:43:34
21 bullet actually hit somebody -- 11:43:37
22 MR. GRAFF: Yes. 11:43:38
23 MR. NOVIKOFF: -- or shot at 11:43:38
24 somebody? 11:43:38
25 MR. GRAFF: No, shot someone where 11:43:38
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1 Loeffler
2 the bullet hit them. 11:43:39
3 MR. NOVIKOFF: Okay. 11:43:40
4 A. Yes. 11:43:41
5 **Q. Who have you shot? 11:43:42**
6 A. Perpetrator. 11:43:43
7 **Q. Other than that occasion in 1975, 11:43:45**
8 **have you shot anyone else? 11:43:48**
9 A. No. 11:43:49
10 **Q. And just to be clear, have you shot 11:43:49**
11 **anyone else inadvertently not intending to 11:44:02**
12 **shoot them? 11:44:05**
13 A. No. 11:44:06
14 MR. NOVIKOFF: Are you going to ask 11:44:16
15 about deer? 11:44:17
16 **Q. During the period of your service as 11:44:26**
17 **trustee at Ocean Beach, did you ever discipline 11:44:28**
18 **any employees of Ocean Beach? 11:44:31**
19 MR. NOVIKOFF: Objection to the 11:44:33
20 form, "discipline." I don't know what it 11:44:35
21 means. 11:44:36
22 A. No. 11:44:38
23 **Q. What about during your service as 11:44:42**
24 **mayor, have you ever had occasion to discipline 11:44:44**
25 **any employee at Ocean Beach? 11:44:46**
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1 Loeffler
2 MR. NOVIKOFF: Same objection. 11:44:48
3 A. Yes. 11:44:49
4 **Q. On how many occasions have you 11:44:52**
5 **disciplined an employee at Ocean Beach? 11:44:55**
6 A. Two. 11:44:57
7 **Q. Starting with the first of those 11:45:01**
8 **occasions, could you describe the 11:45:04**
9 **circumstances. 11:45:07**
10 A. The first one was with -- both of 11:45:08
11 them were clerical staff in the Village office. 11:45:12
12 **Q. And what precipitated your 11:45:15**
13 **disciplining a member of the clerical staff on 11:45:21**
14 **the first occasion? 11:45:24**
15 A. I don't know the particulars of the 11:45:24
16 discipline, but they both received -- letters 11:45:26
17 of discipline were placed in their employee 11:45:28
18 jackets. 11:45:31
19 **Q. Do you remember the name of the 11:45:31**
20 **individual member of the clerical staff on the 11:45:35**
21 **first occasion? 11:45:38**
22 A. Susan Caffuco. 11:45:39
23 **Q. And on the second occasion, do you 11:45:45**
24 **remember the particular name of the clerical 11:45:54**
25 **staff? 11:45:56**
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1 Loeffler
2 A. Arta Wejien. 11:45:56
3 **Q. Do you know what precipitated your 11:46:04**
4 **discipline of Arta Wejien? 11:46:08**
5 A. I don't remember. 11:46:10
6 **Q. And you also don't remember 11:46:10**
7 **why Susan Caffuco was -- 11:46:12**
8 A. I don't remember the sum and 11:46:12
9 substance, but I know that there were two 11:46:13
10 letters -- I have issued two letters of 11:46:14
11 discipline. 11:46:16
12 **Q. Other than those two letters, have 11:46:18**
13 **you disciplined any other members of Ocean 11:46:20**
14 **Beach, any other employees of Ocean Beach? 11:46:22**
15 MR. NOVIKOFF: Objection. Asked and 11:46:24
16 answered. 11:46:25
17 A. No, I have not. 11:46:25
18 **Q. Have you ever directed anyone else 11:46:27**
19 **to discipline anyone, any employees of Ocean 11:46:30**
20 **Beach? 11:46:33**
21 MR. NOVIKOFF: Objection to the 11:46:33
22 form. 11:46:34
23 A. No, I have not. 11:46:34
24 **Q. Have you ever terminated the 11:46:38**
25 **employment of any employees at Ocean Beach? 11:46:42**
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1 **Loeffler**
2 MR. NOVIKOFF: Okay. I am going to 11:46:44
3 object only -- has this witness as mayor or 11:46:45
4 the trustee ever on his own accord said 11:46:51
5 "you're fired"? 11:46:55
6 MR. GRAFF: Effectuated the 11:46:56
7 termination, either yourself or by 11:46:57
8 directing someone else to. 11:47:00
9 MR. NOVIKOFF: Okay, I am going to 11:47:01
10 object to the form, but you can answer. 11:47:02
11 A. Define "termination" for me. 11:47:04
12 **Q. Do you understand what "termination" 11:47:10**
13 **means in the context of employment? 11:47:12**
14 A. No, I don't. 11:47:13
15 **Q. To discontinue the employment of a 11:47:14**
16 **person, to prevent that person from continuing 11:47:23**
17 **to work at Ocean Beach. 11:47:28**
18 MR. NOVIKOFF: Those are the two 11:47:31
19 definitions of "terminate" that you are 11:47:32
20 asking this witness to answer on? 11:47:34
21 MR. GRAFF: Yes. 11:47:36
22 MR. NOVIKOFF: Okay. Objection to 11:47:37
23 the form of the question. 11:47:39
24 A. No. 11:47:41
25 **Q. To your knowledge, has any Ocean 11:47:41**
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1 **Loeffler**
2 **Beach police officer ever been terminated? 11:47:48**
3 A. No. 11:47:50
4 **Q. To your knowledge, has any member of 11:47:53**
5 **the Ocean Beach Police Department ever been 11:48:12**
6 **subject to discipline? 11:48:14**
7 MR. NOVIKOFF: Objection to the form 11:48:15
8 of the question. I think "discipline" is a 11:48:18
9 very broad word. 11:48:20
10 A. And "anyone." Is that over the last 11:48:22
11 60 years or what are you talking about? 11:48:26
12 **Q. Yes. 11:48:27**
13 MR. NOVIKOFF: Over the last 60 11:48:28
14 years? 11:48:29
15 MR. GRAFF: That he is aware, yes. 11:48:29
16 A. I have no -- 11:48:31
17 MR. NOVIKOFF: Objection. 11:48:31
18 A. No, I have no knowledge. 11:48:33
19 MR. GRAFF: I am going to ask the 11:48:52
20 court reporter to please mark as 11:48:53
21 Exhibit Loeffler 4 a one-page document 11:48:54
22 produced by Ocean Beach bearing Bates 11:48:56
23 number 001005. 11:48:58
24 (Loeffler Exhibit 4, memo dated 11:49:15
25 April 4, 2006, Bates stamped 001005, marked 11:49:15
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1 Loeffler
2 for identification.) 11:49:15
3 MR. NOVIKOFF: And you want him to 11:49:15
4 do what with this? 11:49:15
5 **Q. To review the document and to let me 11:49:34**
6 **know if this is a document that you have seen 11:49:36**
7 **before, Mayor Loeffler. 11:49:38**
8 **(Document review.) 11:49:39**
9 MR. NOVIKOFF: So the question is 11:49:39
10 does he recognize this document? 11:49:54
11 MR. GRAFF: Yes. 11:49:55
12 A. I don't remember seeing that 11:49:56
13 document. 11:49:58
14 **Q. Okay. At the bottom of the 11:50:00**
15 **document, if you will note there is a CC and 11:50:05**
16 **there is two names who that document is CC'd 11:50:07**
17 **to. 11:50:10**
18 MR. NOVIKOFF: Let the record 11:50:10
19 reflect that it's CC'd to Natalie K. 11:50:11
20 Rogers/Mayor/Police Commissioner and Joseph 11:50:13
21 Loeffler/Trustee. 11:50:16
22 **Q. Mayor Loeffler, during the time that 11:50:18**
23 **you were a trustee at Ocean Beach, was Mayor 11:50:21**
24 **Rogers -- did Mayor Rogers ever serve as police 11:50:26**
25 **commissioner of Ocean Beach? 11:50:29**
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1 **Loeffler**
2 MR. NOVIKOFF: Objection to the form 11:50:30
3 of the question. 11:50:30
4 A. She by Village law would be the 11:50:31
5 department head for all departments. So the 11:50:36
6 term "police commissioner" could broadly be 11:50:40
7 used for that position. 11:50:42
8 **Q. If you look at the top left of the 11:50:44**
9 **document -- 11:50:46**
10 MR. NOVIKOFF: Okay. 11:50:49
11 **Q. It says Natalie -- this is in the 11:50:50**
12 **header. 11:50:51**
13 MR. NOVIKOFF: It says Natalie C. 11:50:51
14 Rogers, Mayor/Police Commissioner. Okay. 11:50:53
15 **Q. Do you know why the designation with 11:50:56**
16 **the mayor/police commissioner specifically with 11:50:58**
17 **reference to the Police Department and not to 11:51:01**
18 **other departments in Ocean Beach? 11:51:03**
19 MR. NOVIKOFF: Objection to the 11:51:04
20 form. I don't know if you have established 11:51:05
21 that this letterhead is different than any 11:51:08
22 other letterhead, so I am going to object 11:51:10
23 to the form of the question. 11:51:13
24 If you can answer, if you can 11:51:15
25 answer. If you need to look at the 11:51:17
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1 Loeffler
2 document -- 11:51:17
3 A. It looks -- it appears that it's 11:51:18
4 police department stationery. Other 11:51:19
5 departments have different stationery. I don't 11:51:21
6 know. 11:51:24
7 **Q. Have you ever seen stationery that 11:51:24**
8 **identified the mayor, whoever the mayor might 11:51:26**
9 **have been at that time, as mayor/fire 11:51:29**
10 **commissioner? 11:51:31**
11 A. Not that I recall. 11:51:33
12 **Q. Do you recall ever seeing a document 11:51:39**
13 **that identified the mayor as mayor/sanitation 11:51:41**
14 **commissioner. 11:51:44**
15 MR. NOVIKOFF: The answer is just 11:51:45
16 yes, you recall, or no, you recall. 11:51:46
17 A. No. 11:51:48
18 **Q. Do you recall ever seeing a document 11:51:48**
19 **that identified the mayor as mayor slash any 11:51:51**
20 **department other than police followed by the 11:51:55**
21 **word "commissioner"? 11:51:58**
22 MR. NOVIKOFF: Again, it's just yes 11:51:59
23 if you recall -- 11:52:00
24 A. No. 11:52:01
25 **Q. Do you recall if you have ever 11:52:07**
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1 Loeffler
2 this witness what his understanding, if 11:52:58
3 any, of the frame -- word "let go" is as 11:53:00
4 used by Mr. Hesse. So I am going to object 11:53:03
5 to the question. I think you need to lay a 11:53:07
6 foundation, Ari. 11:53:09
7 MR. GRAFF: Okay. 11:53:10
8 **Q. Now if you could look at the 11:53:10**
9 **document, do you understand what the document 11:53:12**
10 **is referring to? 11:53:13**
11 A. Yes, I do. 11:53:17
12 **Q. And what is the document referring 11:53:18**
13 **to? 11:53:20**
14 A. It's referring to the fact that 11:53:20
15 there are one, two, three, four, five, six -- 11:53:22
16 seven names of individuals that were not 11:53:27
17 rehired. 11:53:29
18 **Q. And other than based on this 11:53:30**
19 **document, do you recall that these seven or 11:53:33**
20 **eight officers were not rehired at that time? 11:53:37**
21 A. Is it seven or is it eight? 11:53:40
22 **Q. Seven. 11:53:42**
23 A. That's what I thought. 11:53:43
24 MR. NOVIKOFF: So what's the 11:53:46
25 question? Now that we have gotten the math 11:53:47
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1 Loeffler
2 **during the time that you served as a trustee 11:52:09**
3 **and Mayor Rogers was serving as mayor whether 11:52:12**
4 **you ever received correspondence that was 11:52:14**
5 **copied to Mayor Rogers and to yourself but to 11:52:17**
6 **no other members of the Board of Trustees? 11:52:20**
7 A. I don't recall. 11:52:22
8 **Q. The document at the reference line 11:52:27**
9 **is headed Termination of Employment. The text 11:52:30**
10 **reads: "For your information, the following 11:52:33**
11 **officers were let go and will not be returning 11:52:35**
12 **to work for the 2006 summer season." Then it 11:52:37**
13 **lists certain names. 11:52:40**
14 **Mayor Loeffler, are you aware that 11:52:42**
15 **certain officers were let go and did not return 11:52:44**
16 **to work for the 2006 summer season as stated in 11:52:46**
17 **the document? 11:52:49**
18 MR. NOVIKOFF: Objection to the form 11:52:49
19 of the question. I don't know what you 11:52:50
20 mean by "let go." 11:52:51
21 MR. GRAFF: As stated in the 11:52:52
22 document, to the extent that he can 11:52:53
23 understand it. 11:52:55
24 MR. NOVIKOFF: The document says 11:52:56
25 "let go." I don't know if you have asked 11:52:57
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1 Loeffler
2 right. 11:53:47
3 **Q. If you have a recollection of this 11:53:47**
4 **happening independent of this document. 11:53:50**
5 A. No, I don't. 11:53:51
6 MR. NOVIKOFF: Wait, wait, was 11:53:52
7 the -- objection to form. Was the question 11:53:53
8 does he have knowledge independent of this 11:53:55
9 document that seven officers were not 11:53:58
10 rehired in April 2006? 11:54:00
11 That's the question. Taking this 11:54:05
12 document aside, do you have knowledge that 11:54:07
13 in April 2006 seven officers were not 11:54:12
14 rehired? That's the question. 11:54:15
15 A. Yes, I do. 11:54:18
16 **Q. And how did you first learn that 11:54:19**
17 **seven officers -- 11:54:23**
18 MR. GRAFF: I'll note, Mr. Novikoff, 11:54:25
19 we have got the conflicting terminology. 11:54:26
20 If we refer to -- 11:54:29
21 MR. NOVIKOFF: Yes, we all 11:54:30
22 understand that your position is that they 11:54:31
23 were terminated, our position is that they 11:54:32
24 were not rehired. I'm not going to suggest 11:54:35
25 at trial that your use of the word one way 11:54:38
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1 Loeffler
2 or the other changes your position and you 11:54:41
3 are not going to use at the time of trial 11:54:43
4 or in motion that my use of whatever phrase 11:54:45
5 changes our position. 11:54:48
6 MR. GRAFF: Thank you. 11:54:49
7 **Q. When did you first learn that seven 11:54:49**
8 **officers were not rehired in 2006, Mayor 11:54:52**
9 **Loeffler? 11:54:56**
10 A. Sometime after April 4th of 2006. 11:54:56
11 **Q. And how did you come to learn of it 11:55:04**
12 **at that time? 11:55:06**
13 A. I believe Deputy Chief Hesse 11:55:06
14 informed the board that he would not be 11:55:12
15 rehiring these people. 11:55:13
16 **Q. And was that -- did he inform them 11:55:14**
17 **in person in a spoken communication? 11:55:18**
18 A. I don't recall. 11:55:20
19 **Q. Do you recall whether he informed 11:55:20**
20 **the board at any formal meeting of the board? 11:55:23**
21 MR. NOVIKOFF: I am going to object 11:55:28
22 to the form of the question. 11:55:29
23 You can answer, though. 11:55:30
24 A. I don't recall. 11:55:31
25 **Q. Do you recall whether he provided 11:55:34**
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1 Loeffler
2 **any reason why those officers were not being 11:55:35**
3 **rehired when he informed the board? 11:55:38**
4 A. If I don't recall him doing that, I 11:55:40
5 couldn't recall any reasons. 11:55:43
6 **Q. Do you recall ever having any 11:55:45**
7 **conversations directly with George Hesse about 11:55:46**
8 **the fact that certain officers were not rehired 11:55:48**
9 **to work for the 2006 season? 11:55:51**
10 MR. NOVIKOFF: At what period of 11:55:52
11 time? 11:55:54
12 MR. GRAFF: At any period of time. 11:55:55
13 A. Well, obviously five of those 11:55:57
14 officers are part of this lawsuit, so I do have 11:55:58
15 some knowledge that they were not rehired as 11:56:01
16 part of the filing of the documents by the 11:56:04
17 plaintiffs. 11:56:07
18 **Q. Prior to the plaintiffs filing the 11:56:08**
19 **document in this lawsuit, did you have any 11:56:10**
20 **communications with George Hesse that you can 11:56:13**
21 **recall concerning officers not being rehired 11:56:16**
22 **for the 2006 season? 11:56:18**
23 A. No, I don't recall. 11:56:20
24 **Q. Do you know who William Powell is? 11:56:22**
25 A. No, I don't. 11:56:26
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1 Loeffler
2 **Q. Do you know who John Dyer is? 11:56:27**
3 A. No, I don't. 11:56:28
4 **Q. At the time that George Hesse 11:56:30**
5 **informed you that officers were not being 11:56:34**
6 **rehired -- 11:56:37**
7 A. No. 11:56:37
8 **Q. Informed the board? Is that what 11:56:40**
9 **your hesitation was? 11:56:41**
10 A. Okay, yes. 11:56:42
11 **Q. Informed the board including 11:56:43**
12 **yourself that certain officers would not be 11:56:45**
13 **rehired for 2006, did you know who Edward 11:56:47**
14 **Carter was? 11:56:51**
15 A. Yeah. 11:56:52
16 MR. NOVIKOFF: Did he know who he 11:56:52
17 was or was he aware that there was a person 11:56:54
18 affiliated with Ocean Beach named Edward 11:56:56
19 Carter? 11:56:59
20 MR. GRAFF: Either way. 11:57:04
21 MR. NOVIKOFF: Okay. Objection to 11:57:04
22 the form. 11:57:06
23 A. I know who Edward Carter is. 11:57:06
24 **Q. And who did you know Edward Carter 11:57:08**
25 **to be at that time? 11:57:10**
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1 Loeffler
2 A. A police officer. 11:57:11
3 **Q. Had you ever had any communications 11:57:12**
4 **with Edward Carter directly? 11:57:14**
5 A. Once. 11:57:17
6 **Q. On what occasion did you -- 11:57:18**
7 A. He showed up at a fire scene in the 11:57:20
8 wintertime. He was working a midnight tour. 11:57:22
9 That's the only time I ever spoken to Edward 11:57:25
10 Carter. 11:57:27
11 **Q. And in substance what did you -- or 11:57:27**
12 **what did you say to Ed Carter in that 11:57:29**
13 **conversation? 11:57:31**
14 A. "Thanks for coming." 11:57:31
15 **Q. And where was the location of that 11:57:35**
16 **fire scene? 11:57:37**
17 A. On Denhnoff Roadway in Ocean Beach. 11:57:39
18 **Q. And what structure, if any, was on 11:57:42**
19 **fire? 11:57:45**
20 A. Four Seasons Hotel. 11:57:45
21 **Q. And do you know what Ed Carter did 11:57:53**
22 **when he arrived at that fire scene, what role 11:57:55**
23 **he played, if any? 11:57:58**
24 A. No, I don't. 11:57:59
25 **Q. As of April 2006 did you know who 11:58:01**
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1 Loeffler
2 Kevin Lamm was? 11:58:04
3 A. Yes. 11:58:05
4 MR. NOVIKOFF: Objection. 11:58:05
5 Q. And who did you know Kevin Lamm to 11:58:06
6 be? 11:58:08
7 A. A police officer within the Village 11:58:08
8 of Ocean Beach. 11:58:10
9 Q. Had you ever had any communications 11:58:10
10 with Mr. Lamm as of April of 2006? 11:58:12
11 A. Yes, from time to time I would speak 11:58:14
12 with him. 11:58:16
13 Q. And can you recall anything of what 11:58:16
14 you discussed with Kevin Lamm as of April 2006? 11:58:19
15 A. Small talk. I would see him. He 11:58:23
16 would meet the ferries a lot. I guess that was 11:58:26
17 one of his jobs in the Police Department. See 11:58:29
18 him on the street, just say "hi." 11:58:31
19 Q. As of April 2006, did you have any 11:58:33
20 reason to believe that Kevin Lamm's performance 11:58:36
21 as a police officer was less than satisfactory? 11:58:39
22 MR. NOVIKOFF: Objection. 11:58:41
23 You can answer. 11:58:42
24 A. I had no knowledge of his 11:58:42
25 performance status. 11:58:47
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1 Loeffler
2 Q. And what about Ed Carter, as of 11:58:48
3 April 2006 did you have any knowledge of his 11:58:53
4 performance status? 11:58:55
5 MR. NOVIKOFF: Same objections. 11:58:56
6 A. No. 11:58:57
7 MR. NOVIKOFF: Actually, I withdraw 11:59:01
8 the objection because the question was 11:59:03
9 changed. 11:59:04
10 Q. As of April 2006, did you know who 11:59:06
11 Joseph Nofi was? 11:59:08
12 MR. NOVIKOFF: Objection. 11:59:09
13 A. Yes. 11:59:10
14 Q. And who did you know Joseph Nofi to 11:59:11
15 be? 11:59:14
16 A. A police officer with the Ocean 11:59:14
17 Beach Police Department. 11:59:15
18 MR. NOVIKOFF: Ari, is your question 11:59:15
19 as of April 2006 or was it as of April 4th, 11:59:17
20 2006? If your question is as of April 11:59:24
21 2006, that subsumes the entire month of 11:59:28
22 April, which I think this witness testified 11:59:31
23 that perhaps he and George Hesse -- 11:59:32
24 Q. With that clarification, prior to 11:59:34
25 the ending of his employment up to April 4th, 11:59:36
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1 Loeffler
2 2006, who did you know Joseph Nofi to be? 11:59:39
3 MR. NOVIKOFF: Objection. 11:59:42
4 A. A police officer in the Ocean Beach 11:59:43
5 Police Department. 11:59:45
6 Q. Had you ever had any communications 11:59:46
7 with Joseph Nofi as of that time? 11:59:47
8 A. Prior to that date, is that what you 11:59:50
9 are talking about? 11:59:52
10 Q. Yes. 11:59:52
11 A. Yes. 11:59:53
12 Q. And can you recall the substance of 11:59:53
13 anything that was communicated in those 11:59:55
14 conversations? 11:59:56
15 A. No, I can't. Mostly small talk. 11:59:57
16 Q. Do you recall whether you ever 12:00:00
17 discussed any issues with respect to the Ocean 12:00:03
18 Beach Police Department with Joseph Nofi? 12:00:07
19 MR. NOVIKOFF: Objection to the 12:00:10
20 form. 12:00:10
21 A. I'm not clear on what you are 12:00:13
22 asking. 12:00:15
23 Q. Well, did any of the small talk 12:00:15
24 include anything concerning the Ocean Beach 12:00:17
25 Police Department? 12:00:20
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1 Loeffler
2 MR. NOVIKOFF: Other than the fact 12:00:20
3 that Mr. Lamm was an officer at the time? 12:00:21
4 THE WITNESS: No, we are talking 12:00:24
5 about Mr. Nofi, right? 12:00:25
6 MR. NOVIKOFF: Mr. Nofi, I mean. 12:00:26
7 MR. GRAFF: Right. 12:00:26
8 MR. NOVIKOFF: Okay. Objection to 12:00:27
9 the form. 12:00:28
10 A. No. 12:00:29
11 Q. Do you recall discussing any -- 12:00:29
12 discussing with Joe Nofi any other officers at 12:00:31
13 the Ocean Beach Police Department? 12:00:33
14 A. No. 12:00:34
15 Q. Do you recall ever discussing with 12:00:35
16 Kevin Lamm any other officers at the Ocean 12:00:36
17 Beach Police Department? 12:00:39
18 A. No. 12:00:39
19 Q. As of April 4th, 2006, did you know 12:00:39
20 who Frank Fiorillo was? 12:00:44
21 A. Yes. 12:00:45
22 Q. Who did you know him to be? 12:00:45
23 A. A police officer with the Ocean 12:00:47
24 Beach Police Department. 12:00:48
25 Q. Had you ever had any communications 12:00:49
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1 Loeffler
2 with Frank Fiorillo as of that date? 12:00:50
3 A. Yes. 12:00:52
4 Q. How many times would you say you 12:00:52
5 communicated with Frank Fiorillo? 12:00:54
6 A. I don't know. 12:00:56
7 Q. Can you recall the substance of any 12:00:58
8 of those communications? 12:01:00
9 A. Mostly small talk, "how are you 12:01:01
10 doing, how are things going." 12:01:03
11 Q. Other than that small talk, can you 12:01:04
12 recall anything else that you communicated? 12:01:06
13 A. No. 12:01:07
14 Q. Did you have any knowledge of Frank 12:01:08
15 Fiorillo's performance as a police officer as 12:01:11
16 of April 4th, 2006? 12:01:14
17 A. No. 12:01:15
18 Q. Do you recall ever discussing any 12:01:15
19 other officers at the Ocean Beach Police 12:01:28
20 Department with Frank Fiorillo? 12:01:30
21 MR. NOVIKOFF: Objection. You have 12:01:31
22 been asking these questions "do you recall" 12:01:32
23 and I have objected and I haven't objected. 12:01:36
24 When you say "do you recall," are you 12:01:38
25 asking him affirmatively did you have any 12:01:40
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1 Loeffler
2 discussions with him? 12:01:42
3 MR. GRAFF: Yes. 12:01:43
4 MR. NOVIKOFF: Okay. So when you 12:01:44
5 say going forward, and you may want to 12:01:45
6 change your questions, "do you recall," 12:01:48
7 this witness should assume that that means 12:01:50
8 did you ever? Because there is two -- two 12:01:53
9 different meanings to those questions. 12:01:57
10 MR. GRAFF: I would not want to 12:01:58
11 confuse the witness or the testimony. 12:02:00
12 MR. NOVIKOFF: Okay. Ask him did 12:02:01
13 you have any conversations with -- 12:02:02
14 Q. Did you have any conversations with 12:02:02
15 Frank Fiorillo prior to April 4th, 2006? 12:02:04
16 A. Yes. 12:02:07
17 Q. Other than small talk, do you recall 12:02:08
18 anything specific that you discussed with Frank 12:02:12
19 Fiorillo? 12:02:14
20 A. No. 12:02:14
21 Q. Did you ever discuss any police 12:02:15
22 matters with Frank Fiorillo? 12:02:22
23 A. No. 12:02:23
24 MR. NOVIKOFF: Objection. 12:02:24
25 THE WITNESS: Sorry. 12:02:26
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1 Loeffler
2 MR. NOVIKOFF: No, you can answer, 12:02:27
3 that's fine. 12:02:28
4 A. No. 12:02:29
5 Q. As of April 4th, 2006, did you know 12:02:29
6 who Thomas Snyder was? 12:02:32
7 A. Yes. 12:02:33
8 Q. And who did you know him to be? 12:02:34
9 A. A police officer of the Ocean Beach 12:02:35
10 Police Department. 12:02:37
11 Q. Do you have any knowledge of his 12:02:37
12 performance as a police officer? 12:02:40
13 A. No, I do not. 12:02:41
14 Q. Did you ever have any communications 12:02:42
15 with Tom Snyder? 12:02:43
16 A. I don't know if we ever actually -- 12:02:45
17 very infrequent, if I did. I don't remember. 12:02:56
18 Q. Can you recall the substance of 12:02:58
19 anything communicated? 12:02:59
20 A. No. No. 12:02:59
21 Q. Do you recall whether -- strike 12:03:03
22 that. 12:03:05
23 Did you ever discuss any other 12:03:05
24 officers at the Ocean Beach Police Department 12:03:09
25 with Tom Snyder? 12:03:11
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1 Loeffler
2 A. No, I did not. 12:03:12
3 Q. Did you ever direct any of the five 12:03:14
4 plaintiffs in this lawsuit during their time 12:03:16
5 that they were police officers at Ocean Beach, 12:03:19
6 did you ever direct any of them to not issue a 12:03:21
7 citation to any particular person? 12:03:26
8 MR. NOVIKOFF: Objection to the 12:03:28
9 form. You have a wholesale lack of 12:03:29
10 foundation on that question. You are 12:03:32
11 presuming that it was the mayor's 12:03:42
12 responsibility or authority to direct 12:03:44
13 police officers to -- 12:03:47
14 MR. GRAFF: I'm not assuming 12:03:48
15 anything. I am asking if he did direct 12:03:49
16 them. 12:03:51
17 MR. NOVIKOFF: Well, I am objecting 12:03:51
18 to the form. 12:03:52
19 A. Direct them -- repeat the question 12:03:55
20 for me, please. 12:04:00
21 Q. I will ask it a slightly different 12:04:01
22 way. 12:04:03
23 Did you ever ask any of the five 12:04:04
24 plaintiffs to not issue a citation or violation 12:04:05
25 to any particular person on any particular 12:04:09
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1 Loeffler
2 occasion? 12:04:11
3 A. Not that I recall. 12:04:12
4 Q. Did you ever ask any of the five 12:04:14
5 plaintiffs in this case to not arrest any 12:04:18
6 particular person on any particular occasion? 12:04:21
7 A. No. 12:04:23
8 MR. NOVIKOFF: Do you have a good 12:04:27
9 faith basis to suggest that he did? 12:04:28
10 MR. GRAFF: I do. 12:04:30
11 MR. NOVIKOFF: Okay. Can we hear 12:04:31
12 it? Because I think what you just accused 12:04:33
13 the mayor of Ocean Beach of doing by virtue 12:04:37
14 of the question is that he did direct 12:04:40
15 someone not to arrest someone else and I 12:04:41
16 think that's a pretty serious accusation to 12:04:44
17 me. 12:04:47
18 MR. GRAFF: I will be more specific. 12:04:47
19 THE WITNESS: Okay, that would be 12:04:49
20 great. 12:04:49
21 Q. Did you ever direct any of the 12:04:49
22 officers not to arrest or issue a citation to 12:04:51
23 Michael Loeffler? 12:04:54
24 A. Oh, absolutely. Absolutely, I did. 12:04:55
25 Q. And when did that happen? 12:04:57
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1 Loeffler
2 MR. GRAFF: Yes. 12:05:42
3 MR. NOVIKOFF: Testify as to 12:05:42
4 whatever you want to testify about the 12:05:43
5 incident. 12:05:45
6 A. There was an incident that occurred 12:05:45
7 at 31 Ocean Road where my son removed a 12:05:47
8 barbecue from that residence and took it to 12:05:50
9 Ocean Bay Park and Officer Fiorillo, I believe, 12:05:53
10 wanted to issue him a summons for stealing that 12:05:55
11 barbecue, but I own that house. That's my 12:05:57
12 barbecue. So I don't know what Officer 12:06:01
13 Fiorillo was going to commit, but he would have 12:06:03
14 committed a false arrest. I was attempting to 12:06:05
15 stop him from doing that and allow him not to, 12:06:08
16 but I owned that house. That was my barbecue. 12:06:11
17 Okay. So in attempting to assist Officer 12:06:13
18 Fiorillo in not getting involved in a false 12:06:18
19 arrest suit, I did make that suggestion that he 12:06:20
20 not do that, because there would not be a 12:06:23
21 complainant at that house. 12:06:25
22 Q. And was that house your residence? 12:06:26
23 A. No, it was one of my rental houses 12:06:29
24 at the time. 12:06:31
25 Q. Was it occupied at the time? 12:06:32
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1 Loeffler
2 A. When they attempted to issue him a 12:04:59
3 citation for a crime that he didn't commit. 12:05:01
4 Q. When did that take place? 12:05:05
5 A. I don't remember the date. 12:05:06
6 Q. Do you remember the year? 12:05:07
7 A. 2005 maybe. I'm not sure. 12:05:09
8 Q. And which officer specifically are 12:05:13
9 you referring to? 12:05:15
10 A. Officer Fiorillo, right here, 12:05:15
11 sitting right here. 12:05:17
12 Q. And can you describe the context of 12:05:19
13 what you are referring to? 12:05:22
14 A. Yes. He wanted to issue my son a 12:05:22
15 summons for stealing a barbecue. 12:05:24
16 MR. NOVIKOFF: Is there anything 12:05:31
17 more you want to add to that? 12:05:32
18 THE WITNESS: Well, I have to more 12:05:33
19 answer to that, but that's... 12:05:34
20 MR. NOVIKOFF: Okay. 12:05:35
21 Q. If you could elaborate on that, 12:05:35
22 please. 12:05:37
23 A. Well, do you want -- 12:05:37
24 MR. NOVIKOFF: Do you want the 12:05:40
25 witness to -- 12:05:41
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1 Loeffler
2 A. Sure, it was. 12:06:33
3 Q. And did you recognize the specific 12:06:34
4 barbecue in question as being your property and 12:06:36
5 not something that the renting party had 12:06:38
6 brought? 12:06:40
7 A. Absolutely did. It was my barbecue. 12:06:41
8 Q. Other than that specific occasion, 12:06:43
9 did you ever direct any other Ocean Beach 12:06:45
10 police officers to refrain from arresting or 12:06:47
11 issuing a citation to Michael Loeffler? 12:06:51
12 A. No. I didn't advise him not to 12:06:54
13 arrest him. He could have arrested him and 12:06:59
14 maybe he should have and then my son might have 12:07:01
15 a decent lawsuit against the police department 12:07:03
16 and Officer Fiorillo. All I did was advise him 12:07:07
17 that that barbecue belonged to me. 12:07:09
18 Q. And what, if anything, did Frank 12:07:11
19 Fiorillo do in response to that advice? 12:07:13
20 A. I don't know. Obviously he didn't 12:07:15
21 issue the summons. 12:07:17
22 Q. Other than the officers who were not 12:07:32
23 rehired in the 2006 season, are you aware of 12:07:34
24 any other officers who were not rehired at any 12:07:37
25 other times during your service as mayor or 12:07:41
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1 Loeffler
2 trustee? 12:07:44
3 A. I don't recall. 12:07:50
4 Q. Have you -- when was the last time 12:08:06
5 you spoke to Ed Paradiso? 12:08:08
6 A. About a year ago, I guess. 12:08:14
7 Approximately a year. 12:08:22
8 Q. Do you recall what you spoke with Ed 12:08:23
9 Paradiso about at that time? 12:08:26
10 A. His father's funeral. 12:08:27
11 Q. Have you ever had any conversations 12:08:29
12 with Ed Paradiso concerning this lawsuit? 12:08:31
13 A. No, I have not. 12:08:33
14 Q. Do you know whether there was any 12:08:34
15 Civil Service test that George Hesse was 12:08:44
16 required to take in order to attain the 12:08:46
17 position of police sergeant? 12:08:48
18 MR. NOVIKOFF: Objection to the 12:08:50
19 form. I don't know if this witness is an 12:08:51
20 expert in Civil Service law. 12:08:57
21 THE COURT REPORTER: I can't hear 12:08:57
22 you. 12:08:57
23 MR. NOVIKOFF: I said i don't know 12:08:57
24 if this witness is -- and I know he is not 12:08:58
25 an expert on the Civil Service law, so you 12:08:59
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1 Loeffler
2 can answer. 12:09:01
3 A. Was -- a test that he was required 12:09:02
4 to take? 12:09:06
5 Q. Yes. 12:09:06
6 A. I don't know. 12:09:07
7 Q. Do you know whether there was -- 12:09:07
8 strike that. 12:09:09
9 Do you know whether George Hesse 12:09:11
10 ever passed any Civil Service examination in 12:09:13
11 connection with the position of police 12:09:17
12 sergeant? 12:09:19
13 A. No, I do not. 12:09:19
14 Q. Do you know whether George Hesse 12:09:20
15 passed any Civil Service exam in connection 12:09:22
16 with the position of deputy police chief? 12:09:25
17 A. No, I do not. 12:09:28
18 Q. Do you know what the Civil Service 12:09:29
19 requirements are with respect to the hiring of 12:09:38
20 police officers at Ocean Beach? 12:09:48
21 MR. NOVIKOFF: All of the Civil 12:09:49
22 Service requirements? 12:09:50
23 MR. GRAFF: Any. 12:09:51
24 MR. NOVIKOFF: Objection to form. 12:09:52
25 A. No, I do not. 12:09:53
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1 Loeffler
2 Q. Is there any particular individual 12:09:55
3 or position at Ocean Beach that is responsible 12:10:01
4 for overseeing compliance with applicable Civil 12:10:04
5 Service requirements for employees? 12:10:08
6 A. Yes. 12:10:09
7 Q. And who is that person? 12:10:09
8 A. Mary Anne Minerva. 12:10:12
9 Q. And what position does Mary Anne 12:10:15
10 Minerva hold? 12:10:16
11 A. She is the Village clerk. 12:10:16
12 Q. And do you exercise any oversight 12:10:18
13 over Mary Anne Minerva's execution of those 12:10:20
14 responsibilities? 12:10:23
15 MR. NOVIKOFF: Objection to the form 12:10:24
16 of the question. Other than in his overall 12:10:25
17 capacity as mayor? 12:10:27
18 MR. GRAFF: Well, does he in his 12:10:30
19 overall capacity as mayor or otherwise 12:10:31
20 exercise any oversight over Mary Anne 12:10:34
21 Minerva with respect to that. 12:10:37
22 MR. NOVIKOFF: I think the mayor 12:10:38
23 would, as already testified -- 12:10:40
24 A. She would have general oversight 12:10:41
25 over everybody. 12:10:42
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1 Loeffler
2 Q. Okay. And in the context of your 12:10:44
3 general oversight, have you ever done anything 12:10:45
4 specific to oversee Mary Anne Minerva in 12:10:47
5 connection with her execution or compliance 12:10:50
6 with Civil Service requirements for employees? 12:10:57
7 MR. NOVIKOFF: Objection. 12:10:58
8 You can answer. 12:11:00
9 A. That is within the realm of her 12:11:01
10 responsibility as Village clerk. 12:11:04
11 Q. And do you have any information as 12:11:07
12 to whether Mary Anne Minerva has been effective 12:11:09
13 in fulfilling that responsibility? 12:11:14
14 A. I believe she has. 12:11:17
15 Q. And on what do you base that belief? 12:11:18
16 A. I believe she has told me that the 12:11:22
17 payroll today is certified. 12:11:23
18 Q. Do you know whether the payroll 12:11:27
19 for -- specifically with respect to payroll for 12:11:29
20 Ocean Beach police officers was certified 12:11:31
21 throughout the period that you have served as 12:11:34
22 mayor of Ocean Beach? 12:11:36
23 A. I don't know. 12:11:37
24 Q. Do you know whether the payroll was 12:11:40
25 certified at any point during the period that 12:11:42
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1 Loeffler
2 you served as a trustee of Ocean Beach? 12:11:46
3 MR. NOVIKOFF: Objection to the form 12:11:49
4 of the question. 12:11:49
5 You can answer. 12:11:50
6 A. I don't know. 12:11:51
7 Q. Other than Mary Anne Minerva, is 12:11:54
8 there anyone else at Ocean Beach that you are 12:11:56
9 aware of that has interactions with the Civil 12:11:59
10 Service Department? 12:12:04
11 MR. NOVIKOFF: Wait a minute, anyone 12:12:04
12 at Ocean Beach that has interaction? 12:12:06
13 Wouldn't any police officer presumably have 12:12:08
14 interaction? 12:12:11
15 MR. GRAFF: Interaction with the 12:12:12
16 Civil Service Department with respect to 12:12:13
17 compliance with any applicable Civil 12:12:15
18 Service requirements for employees at Ocean 12:12:18
19 Beach. 12:12:20
20 MR. NOVIKOFF: I am going to object 12:12:20
21 to the form. I would presume that every 12:12:21
22 employee at some point in time or another 12:12:23
23 should or had interaction with Civil 12:12:26
24 Service, so I am going to object to the 12:12:28
25 form of the question. I think I know what 12:12:30
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1 Loeffler
2 you are asking, but you didn't get there. 12:12:32
3 A. I have met with the Civil Service 12:12:35
4 Commission as my -- within the realm of my time 12:12:37
5 as being mayor. 12:12:41
6 Q. And on how many occasions have you 12:12:42
7 met with the Civil Service Commission? 12:12:44
8 A. Twice. 12:12:46
9 Q. And who specifically did you meet 12:12:47
10 with? 12:12:50
11 A. Alan Schneider. 12:12:51
12 Q. Did you meet with Alan Schneider on 12:12:54
13 both occasions? 12:12:57
14 A. Yes, I did. 12:12:57
15 Q. When was the first occasion that you 12:12:58
16 met with Alan Schneider? 12:13:01
17 A. Sometime after 2006. 12:13:03
18 Q. And who requested that meeting? 12:13:04
19 A. I did. 12:13:08
20 Q. Why did you request a meeting with 12:13:09
21 Alan Schneider at that time? 12:13:11
22 A. Well, we were attempting to hire 12:13:12
23 some full-time police officers off a new list 12:13:14
24 that had been established. 12:13:21
25 Q. And did you meet with Alan Schneider 12:13:27
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1 Loeffler
2 at his office? 12:13:29
3 A. Yes. 12:13:29
4 Q. How long did that meeting last? 12:13:30
5 A. An hour, two. I don't remember. 12:13:31
6 Q. What was discussed during that hour? 12:13:33
7 A. Qualifications for us hiring 12:13:35
8 full-time police officers. 12:13:38
9 Q. Prior to that meeting, were there 12:13:40
10 any individuals employed as full-time police 12:13:43
11 officers in Ocean Beach? 12:13:47
12 A. Yes. 12:13:49
13 Q. And who was employed as a full-time 12:13:49
14 police officer at Ocean Beach as of that 12:13:52
15 meeting? 12:13:54
16 A. Edward Paradiso, George Hesse, Paul 12:13:54
17 Trosko. I think that might be all. I'm not -- 12:14:08
18 I think that's it. 12:14:19
19 Q. Why were you looking to hire more 12:14:20
20 full-time police officers specifically at that 12:14:23
21 point in time? 12:14:25
22 A. Because it's my opinion that the 12:14:25
23 police department needs to move away from 12:14:29
24 seasonal and part-time police officers and hire 12:14:32
25 full-time police officers because they are more 12:14:34
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1 Loeffler
2 responsive and more reliable than the ones we 12:14:38
3 have been hiring. 12:14:40
4 Q. And can you identify any specific 12:14:41
5 deficiencies with respect to seasonal police 12:15:09
6 officers generally that would lead you to 12:15:12
7 believe that Ocean Beach would be better served 12:15:18
8 by full-time police officers? 12:15:19
9 MR. NOVIKOFF: Are you sure you want 12:15:22
10 to ask that question? 12:15:23
11 A. In my opinion, full-time police 12:15:25
12 officers serve the community better, are less 12:15:27
13 apt to take time off to fulfill their job 12:15:30
14 requirements, and they put the Village first, 12:15:33
15 where seasonal or part-time police officers who 12:15:35
16 have full-time jobs would put their jobs first 12:15:38
17 before the Village of Ocean Beach. So it is of 12:15:41
18 my opinion that the Village is better served by 12:15:43
19 hiring full-time police officers. 12:15:46
20 Q. And in what ways would the seasonal 12:15:49
21 police officers not put Ocean Beach first? 12:15:52
22 A. Well, if they had a conflict between 12:15:54
23 their full-time job and the seasonal job, I 12:15:57
24 would suspect that they would rely on taking 12:16:00
25 the seasonal -- the full-time job more 12:16:03
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1 Loeffler
2 importantly than the seasonal job. 12:16:05
3 **Q. And did you review any kind of 12:16:08**
4 **attendance records or other documentation? 12:16:09**
5 A. I just told you it was my opinion. 12:16:12
6 **Q. In connection with forming that 12:16:14**
7 **opinion. 12:16:15**
8 A. No, I did not. 12:16:16
9 **Q. And on what do you base that 12:16:17**
10 **opinion? 12:16:19**
11 A. On other Police Departments. 12:16:20
12 **Q. Are you aware of any specific 12:16:24**
13 **officers who would -- any specific seasonal 12:16:26**
14 **officers who would not put Ocean Beach Police 12:16:32**
15 **Department first? 12:16:35**
16 A. No, I am not. 12:16:35
17 **Q. Did you have any discussions with 12:16:36**
18 **anybody else at Ocean Beach concerning your 12:16:40**
19 **opinion at that time? 12:16:43**
20 A. No. 12:16:44
21 **Q. Did you have any discussions with 12:16:50**
22 **George Hesse about why you were seeking to hire 12:16:52**
23 **additional full-time police officers at that 12:16:55**
24 **time? 12:16:56**
25 A. I told him that was what I was going 12:16:56
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1 Loeffler
2 to do. 12:16:59
3 **Q. Did he ask you why? 12:16:59**
4 A. Yes, and I told him exactly what I 12:17:00
5 told you. 12:17:03
6 **Q. And did he say anything in response? 12:17:03**
7 A. No, he did not. 12:17:06
8 **Q. As far as you know, was George 12:17:10**
9 **Hesse's employment as a full-time police 12:17:12**
10 **officer in compliance with any applicable Civil 12:17:17**
11 **Service requirements at that time? 12:17:20**
12 MR. NOVIKOFF: Objection to the 12:17:21
13 form. 12:17:22
14 A. I believe he was. 12:17:23
15 **Q. Was that discussed at all at that 12:17:27**
16 **first meeting with Alan Schneider? 12:17:29**
17 A. Yes. 12:17:32
18 **Q. And in substance what was discussed 12:17:34**
19 **with respect to that issue? 12:17:38**
20 A. Whether George Hesse could fulfill 12:17:39
21 the job category classification of supervisor. 12:17:43
22 **Q. And what, if anything, did 12:17:47**
23 **Mr. Schneider express on that topic? 12:17:52**
24 A. That he could not. 12:17:54
25 **Q. Did Mr. Schneider indicate whether 12:18:01**
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1 Loeffler
2 **George Hesse could meet the requirements for 12:18:04**
3 **continued service as a full-time police 12:18:07**
4 **officer? 12:18:09**
5 A. No, just -- we just spoke about 12:18:09
6 supervision. 12:18:12
7 **Q. And did you -- other than what you 12:18:13**
8 **have already testified to, what, if anything, 12:18:19**
9 **do you recall of the substance of the 12:18:22**
10 **discussion with Alan Schneider at that first 12:18:23**
11 **meeting? 12:18:26**
12 MR. NOVIKOFF: Objection to asking 12:18:26
13 this witness to recall exactly what he has 12:18:27
14 testified to. 12:18:31
15 A. Mr. Schneider allowed us to hire a 12:18:32
16 part-time -- seasonal police sergeant. 12:18:37
17 **Q. And who was hired as the seasonal 12:18:42**
18 **police sergeant? 12:18:52**
19 A. Richard -- I have to think of his 12:18:53
20 last name. I can't think of it. We hired 12:18:56
21 someone from the Police Department, from within 12:18:57
22 the Police Department that had been a 12:18:59
23 lieutenant with the New York City Police 12:19:01
24 Department and Civil Service allowed us to hire 12:19:04
25 him on a seasonal basis for the summer of 2007. 12:19:06
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1 Loeffler
2 **Q. And when did Paul Trosko become a 12:19:15**
3 **full-time police officer, if you know? 12:19:18**
4 A. I don't know. 12:19:20
5 **Q. Was Mary Anne Minerva present at 12:19:20**
6 **that meeting with Alan Schneider? 12:19:23**
7 A. Yes, she was. 12:19:25
8 **Q. What, if anything, did Mary Anne 12:19:26**
9 **Minerva say during that meeting? 12:19:27**
10 A. I don't think she said anything. 12:19:29
11 **Q. Who else was present for that 12:19:31**
12 **meeting? 12:19:34**
13 A. Peter Fishbein from the office of 12:19:35
14 Bee Ready Fishbein. 12:19:38
15 **Q. Anyone else? 12:19:41**
16 A. County attorney's office. I don't 12:19:42
17 remember who she was. A female county 12:19:45
18 attorney. 12:19:48
19 **Q. If I said the name Arlene Zwilling, 12:19:48**
20 **would that refresh your recollection as to that 12:19:52**
21 **person's name? 12:19:53**
22 A. I don't remember. It could. I 12:19:54
23 don't -- I don't remember. And there was 12:19:57
24 someone else from Civil Service, another 12:19:59
25 official. Bettenhouse, Richard Bettenhouse. 12:20:06
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1 Loeffler
2 I'm sorry. 12:20:10
3 MR. NOVIKOFF: That's the name of 12:20:11
4 the -- 12:20:12
5 A. That's the name of the officer we 12:20:12
6 appointed sergeant, temporary sergeant. 12:20:14
7 **Q. Do you know anybody at the Civil 12:20:19**
8 **Service -- Suffolk County Civil Service 12:20:23**
9 **Department by the name of Alison Sanchez? 12:20:25**
10 A. Yes. 12:20:27
11 **Q. And who do you know her to be? 12:20:28**
12 MR. NOVIKOFF: Based upon what? 12:20:29
13 Before the filing of the Complaint? 12:20:30
14 MR. GRAFF: No, as he sits here 12:20:31
15 today. 12:20:32
16 MR. NOVIKOFF: What's that? 12:20:33
17 MR. GRAFF: As he sits here today. 12:20:33
18 MR. NOVIKOFF: Yeah, but the 12:20:34
19 question is very broad. Does he know -- 12:20:34
20 you asked him, I think, essentially how 12:20:37
21 does he know her. The question I think 12:20:39
22 should be did he know of her before the 12:20:40
23 filing of the Complaint or after the 12:20:42
24 filing. 12:20:44
25 MR. GRAFF: I will clarify that. 12:20:44
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1 Loeffler
2 MR. NOVIKOFF: Okay. 12:20:46
3 **Q. Did you know who Alison Sanchez was 12:20:46**
4 **prior to the filing of the Complaint? 12:20:48**
5 A. No, I don't think so. 12:20:50
6 **Q. And would you have known the same 12:20:57**
7 **individual by the name Alison Chester? 12:20:59**
8 A. No, it was Alison Sanchez. 12:21:01
9 **Q. Do you recall how you first heard 12:21:06**
10 **the name Alison Sanchez? 12:21:07**
11 A. Yes. 12:21:10
12 **Q. And in what context did you first 12:21:11**
13 **hear her name? 12:21:13**
14 A. I was introduced to her. She was in 12:21:14
15 the Village office reviewing payroll documents. 12:21:16
16 **Q. When did that happen? 12:21:19**
17 A. I don't remember. 12:21:20
18 **Q. Who was she reviewing the payroll 12:21:21**
19 **documents with? 12:21:25**
20 A. Mary Anne Minerva. 12:21:25
21 **Q. Anyone else? 12:21:26**
22 A. Not that I recall. 12:21:27
23 **Q. How did you know what documents 12:21:28**
24 **Ms. Sanchez and Ms. Minerva were reviewing? 12:21:35**
25 A. They appeared to be payroll 12:21:38
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1 Loeffler
2 documents. 12:21:40
3 **Q. Did you have any conversations with 12:21:41**
4 **Mary Anne Minerva about her meeting on that 12:21:42**
5 **occasion with Alison Sanchez? 12:21:45**
6 A. No. 12:21:48
7 **Q. When was the second occasion that 12:21:49**
8 **you met with Mr. Schneider? 12:21:51**
9 A. Probably a year after, a year 12:21:56
10 following the appointment of Richard 12:22:01
11 Bettenhouse. 12:22:03
12 **Q. And why did you meet with 12:22:04**
13 **Mr. Schneider on that occasion? 12:22:06**
14 A. Because we wished to continue that 12:22:07
15 position for another year. 12:22:09
16 **Q. And was that an in-person meeting? 12:22:11**
17 A. Yes, it was. 12:22:15
18 **Q. Was it also again at Mr. Schneider's 12:22:16**
19 **office? 12:22:19**
20 A. Yes, it was. 12:22:19
21 **Q. Who else was present for the 12:22:20**
22 **meeting? 12:22:21**
23 A. The same people that were at the 12:22:21
24 first meeting. 12:22:25
25 **Q. And how long did that meeting last? 12:22:27**
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1 Loeffler
2 A. I don't recall. 12:22:29
3 **Q. And in substance what was discussed 12:22:31**
4 **during that meeting? 12:22:33**
5 A. The continuation of the position of 12:22:34
6 temporary sergeant for the Village of Ocean 12:22:36
7 Beach Police Department. 12:22:39
8 **Q. Were any other topics discussed? 12:22:39**
9 A. No. 12:22:41
10 **Q. And in substance what did 12:22:42**
11 **Mr. Schneider communicate with respect to that 12:22:45**
12 **issue during that meeting? 12:22:47**
13 A. That they would allow it for one 12:22:48
14 more season, but they would not continue to 12:22:50
15 allow it. 12:22:53
16 **Q. During either of your meetings with 12:22:59**
17 **Mr. Schneider did you take any notes during the 12:23:01**
18 **meeting? 12:23:04**
19 A. No, I did not. 12:23:05
20 **Q. Do you know whether anyone took 12:23:06**
21 **notes during either of those meetings? 12:23:09**
22 A. I believe counsel did. 12:23:10
23 **Q. Would that be counsel for Ocean 12:23:11**
24 **Beach or counsel for the county? 12:23:15**
25 A. I believe both counsels did. 12:23:16
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1 Loeffler
2 **Q. As mayor of Ocean Beach do you have** 12:23:18
3 **the authority to terminate the employment of** 12:23:36
4 **police officers at Ocean Beach?** 12:23:39
5 A. I don't know. 12:23:40
6 **Q. Do you know who, if anyone, at Ocean** 12:23:44
7 **Beach has the authority to terminate police** 12:23:46
8 **officers currently?** 12:23:48
9 A. I would imagine the Village board 12:23:49
10 would have that authority and probably the 12:23:59
11 department heads can terminate people under 12:24:06
12 their guise as long as they meet the 12:24:08
13 termination requirements of Civil Service. 12:24:12
14 **Q. And would a department head at Ocean** 12:24:13
15 **Beach need to obtain approval from anyone else** 12:24:17
16 **at Ocean Beach in order to terminate an** 12:24:18
17 **employee under their supervision?** 12:24:21
18 A. No. We allow them to hire and fire. 12:24:23
19 **Q. What about when George Hesse was** 12:24:25
20 **acting deputy chief, did he have hire and fire** 12:24:29
21 **authority over the Ocean Beach Police** 12:24:32
22 **Department?** 12:24:34
23 A. Yes, he did. 12:24:34
24 MR. GRAFF: I am going to ask the 12:24:51
25 court reporter to please mark as 12:24:53
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1 Loeffler
2 **Q. So you received this Exhibit 5 in** 12:26:11
3 **the mail?** 12:26:12
4 A. I would think -- I don't know. I 12:26:13
5 don't know how it got into my possession. 12:26:14
6 **Q. Do you recall where you were when** 12:26:17
7 **you saw the document?** 12:26:18
8 A. I imagine I was in the Village 12:26:19
9 office. 12:26:21
10 **Q. At that time did you know who Alison** 12:26:21
11 **Sanchez was?** 12:26:23
12 A. Yes. 12:26:24
13 **Q. Had you ever received correspondence** 12:26:26
14 **from Alison Sanchez prior to this exhibit?** 12:26:28
15 MR. NOVIKOFF: That he is aware of. 12:26:30
16 MR. GRAFF: That he is aware of. 12:26:31
17 A. I don't recall. 12:26:34
18 **Q. Did you receive this document before** 12:26:34
19 **or after your first meeting with Alan** 12:26:40
20 **Schneider?** 12:26:42
21 MR. NOVIKOFF: Do you need to look 12:26:45
22 at the document? 12:26:47
23 THE WITNESS: Yes, let me see it. 12:26:47
24 MR. NOVIKOFF: (Handing). 12:26:49
25 A. I believe before. 12:26:57
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1 Loeffler
2 Exhibit Loeffler 5 a one-page document 12:24:54
3 produced to us by the county without Bates 12:24:56
4 number. 12:24:59
5 (Loeffler Exhibit 5, letter dated 12:25:08
6 January 4, 2007, marked for 12:25:08
7 identification.) 12:25:26
8 MR. NOVIKOFF: And is there a 12:25:26
9 question? Do you want him to look at the 12:25:27
10 document? 12:25:30
11 MR. GRAFF: When you are done 12:25:30
12 reviewing it, Mr. Novikoff. 12:25:31
13 MR. NOVIKOFF: I'm sorry. 12:25:31
14 **Q. If Mayor Loeffler could please look** 12:25:32
15 **at the document, and my first question is** 12:25:34
16 **whether you have seen the document before.** 12:25:37
17 (Document review.) 12:25:53
18 A. Yes, I have seen this document. 12:25:53
19 **Q. When did you first see the document?** 12:25:55
20 A. Sometime in January of '07. 12:25:57
21 **Q. Was the version of the document that** 12:25:59
22 **you saw signed?** 12:26:00
23 A. I don't recall. 12:26:02
24 **Q. Did you receive it in the mail?** 12:26:06
25 A. I receive everything in the mail. 12:26:08
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1 Loeffler
2 **Q. Was this document -- strike that.** 12:26:58
3 **When you received this document, did** 12:27:09
4 **you have an understanding of what it was** 12:27:10
5 **referring to with the first few sentences:** 12:27:12
6 **"This department has become aware that Police** 12:27:14
7 **Officer George Hesse has been working in a** 12:27:16
8 **supervisory capacity. Supervisory** 12:27:18
9 **responsibility is a duty that is out of title** 12:27:21
10 **for a police officer"?** 12:27:23
11 MR. NOVIKOFF: Objection to the 12:27:24
12 form. I think you are asking him if he had 12:27:25
13 an understanding as to what Alison Sanchez 12:27:27
14 meant and that's, I think, palpably 12:27:29
15 objectionable. I think the appropriate 12:27:33
16 question would be does he have an 12:27:34
17 understanding as to what this letter means. 12:27:36
18 MR. GRAFF: That's what I attempted 12:27:40
19 to ask. 12:27:42
20 MR. NOVIKOFF: Okay, because that's 12:27:42
21 not what you asked. 12:27:43
22 So do you have an understanding? 12:27:44
23 A. Is that the question? 12:27:46
24 MR. NOVIKOFF: Yes. Not as to what 12:27:46
25 Alison Sanchez meant, but do you have an 12:27:48
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1 Loeffler
2 understanding. 12:27:50
3 A. Yes, I do. 12:27:50
4 **Q. And at the time that you first read 12:27:51**
5 **this, did you have the same understanding? 12:27:53**
6 MR. NOVIKOFF: I don't think you 12:27:56
7 have established that his understandings is 12:27:58
8 different. He says he has an 12:28:00
9 understanding. 12:28:02
10 A. That's my understanding of it, so... 12:28:03
11 **Q. And is your -- okay. 12:28:04**
12 **And what is your understanding of 12:28:06**
13 **the second sentence, "supervisory 12:28:07**
14 **responsibility is a duty that is out of title 12:28:09**
15 **for a police officer"? 12:28:11**
16 A. That a police officer is out of 12:28:12
17 title doing supervisory work. 12:28:15
18 **Q. And out of title, what does that 12:28:18**
19 **refer to in this context, as you understand it? 12:28:21**
20 A. Civil Service title. 12:28:23
21 **Q. And as of January 4, 2007, how long 12:28:25**
22 **had George Hesse been working in a supervisory 12:28:33**
23 **capacity at Ocean Beach? 12:28:36**
24 MR. NOVIKOFF: Objection to the form 12:28:37
25 of the question. 12:28:38
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1 Loeffler
2 MR. NOVIKOFF: You are asking him if 12:29:33
3 the Civil Service Department did something? 12:29:34
4 MR. GRAFF: That he is aware of, 12:29:37
5 yes. 12:29:38
6 MR. NOVIKOFF: I am going to object. 12:29:39
7 You can answer. 12:29:40
8 A. George Hesse was determined to be a 12:29:44
9 police officer. 12:29:46
10 **Q. Did George Hesse's position at the 12:29:57**
11 **Ocean Beach Police Department change subsequent 12:29:59**
12 **to your receipt of this letter? 12:30:02**
13 MR. NOVIKOFF: Objection. 12:30:05
14 **Q. And to clarify the time period a 12:30:07**
15 **little better, after your receipt of this 12:30:10**
16 **letter but before he was placed on modified 12:30:11**
17 **duty. 12:30:14**
18 MR. NOVIKOFF: I am still going to 12:30:14
19 object, but at least that clarified one of 12:30:16
20 the issues. 12:30:20
21 A. Yes, George Hesse's title as 12:30:20
22 sergeant was not utilized after the receipt of 12:30:25
23 this letter. 12:30:31
24 **Q. And did his duties in the Ocean 12:30:32**
25 **Beach Police Department change in connection 12:30:35**
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1 Loeffler
2 A. I don't know. 12:28:39
3 **Q. The second paragraph states: "Once 12:28:46**
4 **we have determined the proper position 12:28:47**
5 **classification, you may then act to appoint 12:28:49**
6 **Mr. Hesse to this title." I'm sorry, I skipped 12:28:52**
7 **a sentence. 12:28:53**
8 **The third sentence of the first 12:28:54**
9 **paragraph: "To remedy this, we will need you 12:28:55**
10 **to submit a new duties statement so that we may 12:28:58**
11 **review the position and determine the proper 12:29:00**
12 **title." 12:29:02**
13 **To your knowledge, was a new duty 12:29:02**
14 **statement for George Hesse ever submitted to 12:29:04**
15 **the Civil Service Department subsequent to your 12:29:07**
16 **receipt of this letter? 12:29:09**
17 A. Not to my knowledge. 12:29:10
18 **Q. The first sentence of the second 12:29:11**
19 **paragraph: "Once we have determined the proper 12:29:16**
20 **position classification, you may then act to 12:29:18**
21 **appoint Mr. Hesse to this title." 12:29:21**
22 MR. NOVIKOFF: Okay. 12:29:26
23 **Q. To your knowledge, did the Civil 12:29:27**
24 **Service Department ever determine the proper 12:29:30**
25 **position classification for George Hesse? 12:29:31**
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1 Loeffler
2 **with that title no longer being utilized? 12:30:37**
3 A. Yes. 12:30:39
4 **Q. And what duties were changed in 12:30:40**
5 **connection with that title change? 12:30:44**
6 A. He was directed to no longer perform 12:30:46
7 supervisory responsibilities with reference to 12:30:50
8 the Ocean Beach Police Department. 12:30:53
9 **Q. And who directed George Hesse to no 12:30:54**
10 **longer perform supervisory responsibilities? 12:30:58**
11 A. I did. 12:31:01
12 **Q. And, to your knowledge, did George 12:31:01**
13 **Hesse adhere to that direction? 12:31:04**
14 A. Yes, he has. 12:31:06
15 **Q. And when did you direct George Hesse 12:31:07**
16 **to no longer exercise supervisory 12:31:11**
17 **responsibilities? 12:31:14**
18 A. Sometime after the receipt of that 12:31:14
19 letter. 12:31:16
20 **Q. And that was prior to his being 12:31:16**
21 **placed on modified duty? 12:31:18**
22 A. I'm not sure when the directive -- 12:31:20
23 do you have a copy of the directive for 12:31:22
24 modified duty assignment, the policy? 12:31:24
25 **Q. We might get to that later. I am 12:31:25**
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1 Loeffler
2 just now -- 12:31:26
3 A. Well, you know -- 12:31:26
4 MR. NOVIKOFF: The witness is asking 12:31:28
5 you to show him a document to help him 12:31:29
6 answer the question, so if you have it, you 12:31:32
7 should show it to him. If not, I think 12:31:34
8 this line of questioning should end then. 12:31:35
9 MR. GRAFF: I will ask a different 12:31:37
10 question now. 12:31:39
11 Q. After you directed George Hesse to 12:31:42
12 no longer exercise supervisory responsibility, 12:31:44
13 who, if anyone, exercised supervisory 12:31:48
14 responsibility with respect to the Ocean Beach 12:31:51
15 Police Department? 12:31:53
16 A. In the summer of '07 Richard 12:31:53
17 Bettenhouse did. 12:31:55
18 Q. And did Richard Bettenhouse's 12:31:56
19 employment end at the end of summer '07? 12:32:02
20 MR. NOVIKOFF: Objection to the form 12:32:04
21 of the question. 12:32:05
22 A. Yes. 12:32:11
23 Q. And after the time that Richard 12:32:12
24 Bettenhouse's employment ended, who, if anyone, 12:32:14
25 exercised supervisory responsibility over the 12:32:16
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1 Loeffler
2 police presence in the residential district 12:33:18
3 when there was at least three police officers 12:33:20
4 working. 12:33:22
5 Q. And what had been the practice until 12:33:22
6 the time that you --
7 MR. NOVIKOFF: Wait, what had
8 been --
9 THE COURT REPORTER: One at a time.
10 MR. NOVIKOFF: What's the question?
11 Q. What had been the practice up until 12:33:25
12 the time that you issued that directive? 12:33:29
13 MR. NOVIKOFF: You mean going back 12:33:30
14 the 55 years that the mayor was in the 12:33:31
15 Village? 12:33:33
16 MR. GRAFF: Going back to the 12:33:34
17 beginning of your service as mayor. 12:33:35
18 A. There was no direction. 12:33:37
19 Q. And can you think of any other 12:33:40
20 directives that you issued? 12:33:43
21 A. I just -- no, I don't -- 12:33:45
22 Q. What policies did you supervise the 12:33:48
23 issuance of? 12:33:52
24 A. I think the adoption of the policy 12:33:53
25 manual, I supervised that when it went into 12:34:04
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1 Loeffler
2 Ocean Beach Police Department? 12:32:18
3 A. I did. 12:32:19
4 Q. Anyone else? 12:32:20
5 A. No. 12:32:21
6 Q. And in what ways did you exercise 12:32:22
7 that supervisory responsibility? 12:32:25
8 A. I supervised the issuance of 12:32:28
9 directives, policy, and the certifying -- or 12:32:34
10 the issuance of orders within the Police 12:32:42
11 Department. 12:32:46
12 Q. And what directives did you 12:32:46
13 supervise the issuance of? 12:32:51
14 A. I issued a bunch of directives. I 12:32:53
15 don't know -- 12:32:55
16 Q. Can you think of a single one? 12:32:56
17 A. I can think of one directive that I 12:32:58
18 issued that when there are more than three 12:33:02
19 police officers working, one of them shall 12:33:05
20 be -- we set up station points and should be 12:33:07
21 responsible to patrol the residential area of 12:33:08
22 the Village. That was one of the directives 12:33:12
23 that I wrote. 12:33:14
24 Q. Why did you issue that directive? 12:33:14
25 A. Because I wanted to have a better 12:33:16
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1 Loeffler
2 place in 2006. 12:34:08
3 Q. And what is that policy manual that 12:34:11
4 you are referring to? 12:34:13
5 A. It's the policy manual for the 12:34:14
6 Village Police Department. 12:34:16
7 Q. Who drafted it, authored it? 12:34:17
8 A. It's a combination of a lot of 12:34:20
9 Police Departments. 12:34:23
10 Q. And who compiled it? 12:34:23
11 A. Paul Trosko had a lot to do with 12:34:25
12 compiling that before he left the employ of the 12:34:29
13 Police Department. 12:34:31
14 Q. And did you oversee Paul Trosko's 12:34:32
15 compilation of the policy manual? 12:34:38
16 A. Yes. 12:34:45
17 Q. Did you give Paul Trosko any 12:34:46
18 instructions with respect to his compilation of 12:34:48
19 the policy manual? 12:34:51
20 A. Yes. 12:34:52
21 Q. What did you instruct Paul Trosko 12:34:52
22 with respect to that issue? 12:34:55
23 A. "Do a good job." 12:34:56
24 Q. And prior to the issuance of the 12:34:57
25 policy manual in 2006, what, if any, written 12:35:01
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1 Loeffler
2 policies internal to Ocean Beach governed the 12:35:08
3 conduct or operation of the Ocean Beach Police 12:35:11
4 Department? 12:35:13
5 A. I don't -- I'm unaware that there 12:35:13
6 was one. 12:35:15
7 Q. Why did you direct the compilation 12:35:16
8 of the policy manual in 2006? Why did you 12:35:22
9 decide to do that at that time? 12:35:24
10 A. Because it hadn't been done. 12:35:25
11 Q. And what was the purpose in doing it 12:35:27
12 if it hadn't been done until that point? 12:35:30
13 MR. NOVIKOFF: Objection to the form 12:35:32
14 of the question. 12:35:32
15 A. I felt the Police Department needed 12:35:33
16 a policy manual that could be referred to in 12:35:37
17 any police situation which needed to be 12:35:39
18 addressed by any police officer in the Village 12:35:42
19 of Ocean Beach and we would use it as a 12:35:44
20 reference to how to handle situations and what 12:35:47
21 the policies, goals and expectations of the 12:35:49
22 Police Department were. 12:35:51
23 Q. And is that based on your experience 12:35:52
24 as a police officer? 12:35:55
25 A. Absolutely. 12:35:56
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1 Loeffler
2 Q. Is it based on anything else? 12:35:56
3 MR. NOVIKOFF: Other than his life 12:35:58
4 experience? 12:36:00
5 A. It's based on my life experience as 12:36:00
6 a police officer. 12:36:02
7 Q. And after that policy manual was 12:36:03
8 issued in 2006, was it distributed to all the 12:36:05
9 officers at the Ocean Beach Police Department? 12:36:08
10 A. Yes, it was. 12:36:09
11 Q. And is it like a pocket guide or 12:36:10
12 something more weighty? 12:36:14
13 A. It's approximately a thousand pages. 12:36:15
14 MR. NOVIKOFF: I don't think it's a 12:36:18
15 pocket guide. 12:36:19
16 Q. Was any training provided to the 12:36:20
17 officers with respect to the policy manual? 12:36:21
18 A. Yes. 12:36:23
19 Q. What training? 12:36:24
20 A. The training was that they all had 12:36:24
21 to read it and sign that they had read it. 12:36:26
22 Q. All one thousand pages? 12:36:28
23 A. Absolutely. 12:36:30
24 Q. Was there any quiz or test to 12:36:30
25 determine whether they had effectively 12:36:32
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1 Loeffler
2 assimilated the material after reading it? 12:36:34
3 MR. NOVIKOFF: You mean did they put 12:36:36
4 them in a chair with chalk and they had to 12:36:37
5 write it out? 12:36:39
6 A. No, we just expected them to do 12:36:40
7 that. I read it. 12:36:43
8 Q. Was the policy manual issued in 2006 12:36:54
9 subsequent to April 4th -- excuse me. Strike 12:37:01
10 that. 12:37:06
11 Were any of the plaintiffs employed 12:37:12
12 as police officers at any time when the policy 12:37:14
13 manual was in effect? 12:37:16
14 A. No. 12:37:19
15 Q. Did you ever discuss the substance 12:37:20
16 of the policy manual with any police officers 12:37:24
17 at Ocean Beach other than Paul Trosko? 12:37:27
18 MR. NOVIKOFF: Prior to its issuance 12:37:30
19 or subsequent to its issuance? 12:37:31
20 MR. GRAFF: Subsequent to its 12:37:32
21 issuance. 12:37:33
22 A. George Hesse. 12:37:34
23 Q. And do you recall in substance what 12:37:38
24 you discussed with George Hesse? 12:37:41
25 A. In making up the policy manual I 12:37:42
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1 Loeffler
2 wanted his input in it. 12:37:46
3 Q. And did he provide any input? 12:37:47
4 A. Yes, he did. 12:37:49
5 Q. And what was the nature of his 12:37:50
6 input? 12:37:51
7 A. He made many comments about input. 12:37:52
8 Q. Can you remember anything? 12:37:55
9 A. No, I can't. 12:37:56
10 Q. Are you familiar with an Ocean Beach 12:37:57
11 employee handbook? 12:38:03
12 A. Yes. 12:38:05
13 MR. GRAFF: I don't want to make 12:38:08
14 this a memory game. I am actually going to 12:38:09
15 mark the handbook so you can take a look. 12:38:12
16 If I could ask the court reporter to 12:38:26
17 please mark as Exhibit Loeffler 6 a 12:38:28
18 document with the title page Incorporated 12:38:31
19 Village of Ocean Beach Employee Handbook 12:38:34
20 produced by Ocean Beach Bates numbers 1 12:38:36
21 through 25. 12:38:38
22 (Loeffler Exhibit 6, The 12:38:42
23 Incorporated Village of Ocean Beach 12:38:42
24 Employee Handbook, Bates stamped 000001 12:38:42
25 through 000025, marked for identification.) 12:38:42
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1 Loeffler
2 MR. GRAFF: I will note that 12:39:01
3 Mr. Novikoff is comparing the 25 pages. 12:39:19
4 MR. NOVIKOFF: Hey, it's your 12:39:22
5 exhibit. Are you suggesting for a moment 12:39:24
6 that as competent counsel I shouldn't make 12:39:26
7 sure that what you are handing the witness 12:39:27
8 isn't what you are handing me? 12:39:29
9 MR. GRAFF: Certainly not, but, as 12:39:30
10 you know, this deposition is being 12:39:30
11 videotaped. You are not on camera. I 12:39:31
12 wanted to explain the delay for the record. 12:39:33
13 MR. NOVIKOFF: I don't see why you 12:39:35
14 needed to. Did I explain the delay when 12:39:37
15 you were trying to get your exhibits 12:39:38
16 together prior to reconvening for the 12:39:40
17 second session of this deposition, counsel? 12:39:42
18 I don't think so. 12:39:44
19 Here you go, Mayor (handing). 12:39:46
20 Q. Mayor Loeffler, do you recognize 12:39:51
21 this document as the Ocean Beach employee 12:39:53
22 handbook? 12:39:54
23 A. I haven't had a chance to review it 12:39:55
24 yet. 12:39:56
25 Q. Please take as much time as you need 12:39:57
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1 Loeffler
2 Ocean Beach, who specifically at Ocean Beach 12:43:35
3 did you deal with in connection with that 12:43:37
4 transaction? 12:43:39
5 A. Bee Ready Fishbein are the attorneys 12:43:40
6 for the Village. Every resident in the Village 12:43:45
7 was given an opportunity to buy that piece of 12:43:47
8 property. I wasn't the only one who bought it. 12:43:49
9 600 other people did too. 12:43:52
10 Q. Bought the same property? 12:43:54
11 A. Yeah. 12:43:55
12 Q. Can you explain how that worked. 12:43:56
13 A. Yes. The piece of properties were 12:43:58
14 declared excess by the Village. Some pieces of 12:44:01
15 property were right of way, some pieces of 12:44:04
16 property were easements. They were in the 12:44:06
17 front of the houses and behind the houses. 12:44:08
18 They were 4-by-50 sections of property that the 12:44:10
19 Village decided that were not of use to them 12:44:12
20 and they sold them to each individual 12:44:15
21 homeowner. As a homeowner I was entitled to 12:44:16
22 buy that piece of property and I did, as did 12:44:18
23 approximately 400 other people in the Village. 12:44:21
24 Q. Other than counsel for the Village, 12:44:24
25 who at Ocean Beach was responsible for 12:44:26
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1 Loeffler
2 to answer that question. 12:39:59
3 (Document review.) 12:40:00
4 MR. GRAFF: While Mr. Loeffler is 12:41:31
5 reviewing the document, could I ask the 12:41:32
6 videographer how much time we have on the 12:41:32
7 tape? 12:41:34
8 THE VIDEOGRAPHER: We have 22 12:41:34
9 minutes. 12:41:37
10 (Document review.) 12:42:39
11 Q. Do you recognize this document as 12:43:02
12 the Ocean Beach Employee Handbook? 12:43:06
13 A. At the time -- at this time, yes. 12:43:08
14 Q. And you are referring to the page 12:43:11
15 marked -- 12:43:13
16 A. No, I am referring to the date, in 12:43:13
17 2005 it was. 12:43:16
18 Q. As marked on page 1 of the document? 12:43:17
19 It's stamped upside-down number 1. 12:43:21
20 A. On page 1, yes. 12:43:23
21 MR. NOVIKOFF: Cover page. 12:43:25
22 A. Cover page. 12:43:30
23 Q. If I could go back to something we 12:43:30
24 had been talking about earlier, at the time 12:43:32
25 that you purchased a piece of real estate from 12:43:34
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1 Loeffler
2 administering or overseeing that purchase that 12:44:28
3 you have been describing? 12:44:30
4 A. Counsel did it, pretty much. They 12:44:31
5 set up the deeds, the transfer documents, 12:44:33
6 insured the title reports. 12:44:37
7 Q. And who proposed this real estate 12:44:39
8 purchase system? 12:44:43
9 A. I believe the -- it was before I was 12:44:44
10 on the Village board, so sometime before '02. 12:44:49
11 Q. Do you know whether there was any 12:44:53
12 particular trustee who was overseeing this? 12:44:55
13 A. No, I don't. 12:44:57
14 Q. If I could ask you to please turn to 12:44:59
15 what's stamped as page 4 of the handbook. 12:45:02
16 MR. NOVIKOFF: Okay. Is there 12:45:08
17 anything you would like the witness to do 12:45:09
18 with this? 12:45:10
19 Q. Do you recognize this particular 12:45:11
20 page? 12:45:13
21 MR. NOVIKOFF: Okay (handing). 12:45:13
22 A. I recognize it as page 4 of the 12:45:16
23 handbook. 12:45:24
24 Q. And it's headed acknowledgment -- 12:45:25
25 A. Is it page 4? Bates statement -- 12:45:29
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1 Loeffler
2 stamp 4. 12:45:31
3 MR. NOVIKOFF: Just let the record 12:45:33
4 reflect, counselor -- 12:45:34
5 A. It's an acknowledgment page. 12:45:35
6 MR. NOVIKOFF: -- that you got a 12:45:37
7 table of contents that's page 2, page 3, 12:45:39
8 and then page 4, which is Bates stamped 12:45:42
9 does not have a number on it. 12:45:46
10 **Q. Right. I am referring to the Bates 12:45:47**
11 **stamp. 12:45:49**
12 MR. NOVIKOFF: Okay. 12:45:50
13 **Q. To your knowledge, do employees at 12:45:50**
14 **Ocean Beach -- strike that. 12:45:51**
15 **During the period that you served as 12:45:53**
16 **a trustee at Ocean Beach, did employees at 12:45:54**
17 **Ocean Beach, to your knowledge, sign and return 12:45:57**
18 **this page of the handbook? 12:45:59**
19 A. I don't know. 12:46:00
20 **Q. Is this handbook -- strike that. 12:46:01**
21 **When the policy manual was issued in 12:46:10**
22 **2006, did this handbook continue to apply to 12:46:12**
23 **the employment of Ocean Beach employees in the 12:46:15**
24 **Police Department? 12:46:20**
25 MR. NOVIKOFF: Objection to the form 12:46:20
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1 Loeffler
2 of the question. 12:46:21
3 A. It was a supplement to the policy 12:46:23
4 manual. 12:46:27
5 **Q. Thank you. If I could ask you to 12:46:30**
6 **please turn to what's stamped as page 10 of the 12:46:31**
7 **handbook. 12:46:35**
8 MR. NOVIKOFF: Bates stamp 10? 12:46:36
9 **Q. Numbered page 6, Bates stamp 10. 12:46:37**
10 MR. NOVIKOFF: You got it. Okay. 12:46:40
11 (Handing). Any particular part of page 10? 12:46:42
12 **Q. If I could direct your attention to 12:46:45**
13 **the last subheading on the page, Employment of 12:46:47**
14 **Relatives, my question is are you familiar with 12:46:49**
15 **the policy that's set forth in that paragraph? 12:46:51**
16 A. Yes, I am. 12:46:53
17 MR. NOVIKOFF: Make sure. 12:46:53
18 A. I am. 12:46:53
19 MR. NOVIKOFF: Okay. 12:46:55
20 **Q. And at any point during your service 12:46:55**
21 **as trustee or mayor, did the employment of any 12:47:04**
22 **of your family members at Ocean Beach conflict 12:47:06**
23 **or violate this policy? 12:47:09**
24 A. No. 12:47:10
25 MR. NOVIKOFF: In this witness' 12:47:10
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1 Loeffler
2 opinion? 12:47:12
3 MR. GRAFF: Sure. 12:47:12
4 A. In my opinion, no. 12:47:13
5 MR. NOVIKOFF: Is there an issue in 12:47:16
6 this lawsuit with regard to Mr. Loeffler's 12:47:17
7 family members being -- working for the 12:47:20
8 Village? 12:47:24
9 MR. GRAFF: Mr. Novikoff, in this 12:47:24
10 deposition I ask the questions. 12:47:26
11 MR. NOVIKOFF: No, no, I understand 12:47:27
12 and I am giving -- it's not my place to 12:47:28
13 give you any latitude or give you broad 12:47:30
14 latitude. I am just saying that it seems 12:47:32
15 like that question went to an issue that is 12:47:35
16 so far removed from this case. I am not 12:47:37
17 going to tell him not to answer it. 12:47:39
18 MR. GRAFF: Well, he has answered it 12:47:40
19 and I have another question. 12:47:42
20 MR. NOVIKOFF: Okay. 12:47:43
21 **Q. This is on what's Bates stamped 11, 12:47:43**
22 **page number 7 of the handbook. The second to 12:47:45**
23 **last subheading is captioned Substance Abuse. 12:47:50**
24 **Mayor Loeffler, are you familiar 12:47:54**
25 **with the policy set forth underneath that 12:47:55**
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1 Loeffler
2 **caption? 12:47:58**
3 A. As it's read -- as I read it, yes. 12:47:59
4 **Q. Now, I am looking for clarification 12:48:08**
5 **specifically on the last sentence of the 12:48:11**
6 **paragraph there: "Any employee who repeatedly 12:48:13**
7 **reports to work under the influence of alcohol 12:48:15**
8 **or drugs may have his or her employment 12:48:17**
9 **terminated immediately." 12:48:20**
10 **Do you understand what "repeatedly" 12:48:22**
11 **means in this context? 12:48:24**
12 A. More than once. 12:48:25
13 MR. NOVIKOFF: Are you going to ask 12:48:29
14 him what his understanding of the word 12:48:31
15 "may" means in this context? Are you going 12:48:32
16 to ask him if he is aware if any police 12:48:38
17 officer violated this policy? 12:48:41
18 **Q. To your knowledge, has any employee 12:48:42**
19 **of Ocean Beach employed in the Ocean Beach 12:48:45**
20 **Police Department ever been terminated for 12:48:48**
21 **violation of this policy? 12:48:50**
22 MR. NOVIKOFF: Objection to the 12:48:51
23 form. You haven't established that any 12:48:52
24 employee of the Village's behavior ever 12:48:54
25 came within this policy. 12:48:57
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1 Loeffler
2 You can answer. 12:48:58
3 A. I am not aware that anyone was. 12:49:02
4 **Q. Are you aware of any employee at 12:49:05**
5 **Ocean Beach generally who has ever been 12:49:07**
6 **terminated for violating this policy? 12:49:09**
7 MR. NOVIKOFF: Same objection. 12:49:11
8 A. I am unaware of anyone. 12:49:12
9 **Q. If I could ask you to turn to the 12:49:14**
10 **very last page of the document Bates stamped 12:49:21**
11 **25, no page number. 12:49:25**
12 MR. NOVIKOFF: Okay. Table of 12:49:27
13 Organization? 12:49:28
14 MR. GRAFF: Yes. 12:49:28
15 MR. NOVIKOFF: Got it. And is there 12:49:29
16 a question? 12:49:31
17 **Q. I am asking -- I have some questions 12:49:32**
18 **to clarify the Table of Organization. 12:49:34**
19 MR. NOVIKOFF: So ask him. 12:49:37
20 **Q. The mayor and the Board of Trustees 12:49:38**
21 **I understand. Superintendent of Public Works 12:49:40**
22 **and Village Administrator, is that one position 12:49:42**
23 **or two positions? 12:49:44**
24 A. Two positions. 12:49:45
25 **Q. And during your employment as or 12:49:47**
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1 Loeffler
2 **service as a trustee, who was the 12:49:51**
3 **Superintendent of Public Works? 12:49:52**
4 A. Kevin Schielling. 12:49:54
5 **Q. And was he -- did he hold that 12:49:56**
6 **position continuously during your service as a 12:49:59**
7 **trustee? 12:50:02**
8 A. Yes. 12:50:02
9 **Q. Does he still hold that position? 12:50:02**
10 A. Yes, he does. 12:50:04
11 **Q. And who was the Village 12:50:05**
12 **administrator when you first became a trustee? 12:50:07**
13 A. Ethan -- what's Ethan's last name? 12:50:09
14 There was someone that was the Village 12:50:15
15 administrator. 12:50:18
16 **Q. And was Ms. Minerva the next Village 12:50:19**
17 **administrator after Ethan? 12:50:21**
18 A. Yes. 12:50:23
19 **Q. And the position that your mother 12:50:23**
20 **held, the court clerk, is that reflected 12:50:28**
21 **anywhere on this Table of Organization? 12:50:31**
22 A. No. 12:50:33
23 **Q. Did your mother hold any other 12:50:43**
24 **positions other than clerk of the court? 12:50:45**
25 A. No. 12:50:46
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1 Loeffler
2 **Q. The department heads that are 12:50:51**
3 **identified here, water, sewer maintenance, 12:50:53**
4 **beaches, recreation and fire and police 12:50:56**
5 **departments, do each of those departments have 12:50:59**
6 **a department head? 12:51:00**
7 A. Yes. 12:51:01
8 **Q. During your -- strike that. 12:51:02**
9 MR. GRAFF: That's all I have for 12:51:19
10 the handbook. Counsel, would this be a 12:51:20
11 good time for you to break for lunch? 12:51:22
12 MR. NOVIKOFF: No, actually, I would 12:51:24
13 prefer to go on for another 45 minutes and 12:51:25
14 then maybe break for lunch then. I don't 12:51:27
15 think my witness is tired at all and I'm 12:51:28
16 certainly not tired. 12:51:31
17 MR. GRAFF: Okay. Why don't we at 12:51:32
18 least finish up this tape then. 12:51:33
19 **Q. Mayor Loeffler, who lives with you 12:51:46**
20 **at your residence in Ocean Beach? 12:51:48**
21 A. My wife. 12:51:49
22 **Q. Do any of your children live with 12:51:51**
23 **you? 12:51:53**
24 A. My daughter Jillian. 12:51:53
25 **Q. And other than Jillian, have any of 12:51:56**
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1 Loeffler
2 **your other -- did any of your other children 12:51:57**
3 **live with you at any point during your service 12:51:59**
4 **as trustee or mayor? 12:52:01**
5 A. Yes. 12:52:02
6 **Q. Which children? 12:52:03**
7 A. All of them. 12:52:04
8 MR. NOVIKOFF: Are you just trying 12:52:06
9 to fill up the time until the tape is over? 12:52:07
10 MR. GRAFF: No. 12:52:10
11 MR. NOVIKOFF: Okay. 12:52:12
12 **Q. During what period of time did Mike 12:52:12**
13 **Loeffler live with you? 12:52:14**
14 A. On and off, most of his life. 12:52:16
15 MR. GRAFF: I will ask the 12:52:32
16 court reporter to please mark as 12:52:32
17 Exhibit Loeffler 7 a one-page document 12:52:34
18 produced by Ocean Beach bearing Bates 12:52:36
19 number 3780. 12:52:38
20 (Loeffler Exhibit 7, handwritten 12:52:41
21 document, Bates stamped 003780, marked for 12:52:41
22 identification.) 12:53:01
23 MR. NOVIKOFF: Is there a question? 12:53:01
24 MR. GRAFF: Yes. 12:53:03
25 **Q. When you have a chance to look at 12:53:03**
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1 Loeffler
2 the document, can you identify it, please, 12:53:05
3 Mayor Loeffler. 12:53:08
4 (Document review.) 12:53:15
5 Q. Can you identify the document? 12:53:42
6 A. It's a change of duty assignment 12:53:43
7 that I penned on March 27th, 2007. 12:53:46
8 Q. And was this document that you 12:53:50
9 penned originally only one page? 12:53:54
10 A. Yes. 12:53:56
11 Q. Why did you pen this document at 12:54:00
12 this time, at that time, March 27th, '07? 12:54:05
13 MR. NOVIKOFF: Other than what's 12:54:06
14 already set forth in this document? 12:54:08
15 MR. GRAFF: Yes. 12:54:09
16 MR. NOVIKOFF: Okay. 12:54:10
17 Q. What prompted you to pen this 12:54:10
18 document? 12:54:12
19 A. Advice of counsel. 12:54:12
20 Q. And there is five numbered items 12:54:14
21 towards the bottom of the document. Are those 12:54:18
22 items that you drafted on the advice of 12:54:19
23 counsel? 12:54:23
24 A. Yes. 12:54:23
25 Q. Did counsel speak to you on the 12:54:24
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1 Loeffler
2 were metal or carbon or -- 12:55:22
3 MR. GRAFF: What were they keys? 12:55:24
4 MR. NOVIKOFF: Oh, okay. 12:55:25
5 A. I believe he had copies of all the 12:55:25
6 keys for the Police Department and the 12:55:27
7 vehicles. 12:55:29
8 Q. And was -- I take it the handwritten 12:55:29
9 version is not what was presented to George 12:55:36
10 Hesse? 12:55:38
11 MR. NOVIKOFF: Why do you take that? 12:55:38
12 Why don't you just ask him the question. 12:55:40
13 Q. Was this handwritten version ever 12:55:41
14 presented to George Hesse? 12:55:43
15 A. I believe it was. I believe it may 12:55:46
16 have been typed as well. 12:55:49
17 Q. I, again, don't want to make this a 12:55:50
18 memory game. I am going to ask -- 12:55:52
19 A. Then what are you playing around 12:55:54
20 here for? 12:55:56
21 MR. NOVIKOFF: I mean, if you have 12:55:56
22 the written memo, then show him the written 12:55:57
23 memo. 12:55:59
24 MR. GRAFF: Counsel, they could have 12:56:00
25 both been given to George Hesse. 12:56:01
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1 Loeffler
2 phone as you were drafting it? 12:54:27
3 MR. NOVIKOFF: Objection. Yeah, no, 12:54:28
4 no, that's -- no. 12:54:33
5 Q. Number 5 -- 12:54:38
6 MR. GRAFF: You are going to 12:54:40
7 instruct the witness not to answer? 12:54:40
8 MR. NOVIKOFF: On that one, yes. 12:54:41
9 MR. GRAFF: Okay. 12:54:42
10 Q. Number 5: "The uniform of the day 12:54:42
11 will be proper casual attire." What is proper 12:54:43
12 casual attire, as stated in this document that 12:54:46
13 you drafted? 12:54:48
14 A. Non-uniform. 12:54:49
15 Q. And number 3 says: "Turn in any key 12:54:50
16 in your possession to any Police Department 12:55:03
17 vehicles and facilities." To your knowledge, 12:55:05
18 did -- 12:55:07
19 MR. NOVIKOFF: Number 3, okay. 12:55:08
20 Q. Did George Hesse ever turn in keys 12:55:09
21 as stated in this paragraph, in this number? 12:55:12
22 A. Yes, he did. 12:55:14
23 Q. And what keys did he have that he 12:55:15
24 turned in at that time? 12:55:18
25 MR. NOVIKOFF: You mean whether they 12:55:20
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1 Loeffler
2 MR. NOVIKOFF: Then you should ask 12:56:03
3 that question instead of saying "I take 12:56:04
4 it." 12:56:06
5 MR. GRAFF: I'd like to ask the 12:56:08
6 court reporter to please mark as 12:56:10
7 Exhibit Loeffler 8 a one-page document 12:56:11
8 bearing Bates number 3778 produced by Ocean 12:56:13
9 Beach. 12:56:16
10 (Loeffler Exhibit 8, memo dated 12:56:18
11 March 26, 2007, Bates stamped 003778, 12:56:18
12 marked for identification.) 12:56:39
13 Q. Mayor Loeffler, when you have had a 12:56:39
14 chance to review the document marked Loeffler 12:56:41
15 8, can you tell me if you can identify the 12:56:44
16 document. 12:56:47
17 MR. NOVIKOFF: He is just giving you 12:56:47
18 that document. If he wants you to compare 12:56:57
19 it, he will. 12:56:59
20 (Document review.) 12:57:21
21 A. I have read it. 12:57:21
22 Q. Can you identify the document, 12:57:22
23 please? 12:57:24
24 A. It's a document that's dated March 12:57:24
25 26, 2007 from myself to George Hesse signed by 12:57:27
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1 Loeffler
2 me and it's signed by George Hesse, 3-28-07. 12:57:31
3 **Q. And who typed the document?** 12:57:35
4 A. I don't see the person's initials 12:57:37
5 that typed it, but I didn't type it. One of 12:57:43
6 the clerical person in the office typed it. 12:57:45
7 **Q. If I could ask you to compare** 12:57:47
8 **Loeffler 7 to Loeffler 8 for a moment, Loeffler** 12:57:50
9 **7 ends at the bottom with bullet number 5.** 12:57:52
10 **Loeffler 8 continues through bullet 8. Did you** 12:57:56
11 **ever handwrite bullets 6 through 8 that appear** 12:58:00
12 **on Loeffler 8?** 12:58:04
13 A. I don't know. I don't recall. 12:58:05
14 **Q. Do you know who was responsible for** 12:58:07
15 **introducing numbers 6 through 8 into** 12:58:10
16 **Loeffler 8?** 12:58:12
17 A. I was. 12:58:13
18 **Q. You were?** 12:58:13
19 A. Sure. 12:58:14
20 **Q. Was that also at the advice of** 12:58:14
21 **counsel?** 12:58:16
22 A. Absolutely. 12:58:16
23 THE VIDEOGRAPHER: Counselors, now 12:58:20
24 it's five minutes to the end. 12:58:21
25 **Q. Number 6 on the typewritten version:** 12:58:24
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1 Loeffler
2 **"You shall refrain from any activities which** 12:58:27
3 **may cause you to interact with members of the** 12:58:30
4 **general public pertaining to police functions** 12:58:32
5 **or duties."** 12:58:34
6 **Can you explain what you meant by** 12:58:34
7 **"pertaining to police functions or duties"?** 12:58:40
8 A. Taking police action. 12:58:42
9 **Q. Number 8 states: "No verbal or** 12:58:55
10 **written communication shall be made with** 12:58:58
11 **reference to the police function of the** 12:58:59
12 **department or any other information pertaining** 12:59:00
13 **to the operation or policies of the Village of** 12:59:02
14 **Ocean Beach without first obtaining board** 12:59:05
15 **approval."** 12:59:07
16 **To your knowledge, has George Hesse** 12:59:08
17 **ever obtained board approval to undertake** 12:59:10
18 **verbal or written communications as set forth** 12:59:13
19 **in this paragraph?** 12:59:15
20 MR. NOVIKOFF: Objection. 12:59:16
21 Foundation. You didn't establish that 12:59:17
22 George Hesse ever made the request to the 12:59:19
23 board for the board to give approval. 12:59:21
24 Objection. 12:59:25
25 A. I don't believe he ever applied for 12:59:26
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1 Loeffler
2 permission. 12:59:30
3 **Q. To your knowledge, has George Hesse** 12:59:31
4 **adhered to all the terms of this modified duty** 12:59:33
5 **statement 1 through 8?** 12:59:37
6 A. Yes. 12:59:38
7 **Q. Are the terms of this statement** 12:59:39
8 **still in effect?** 12:59:40
9 A. Yes. 12:59:41
10 **Q. In your handwritten version,** 12:59:43
11 **Loeffler 7, the memo is addressed to Deputy** 12:59:44
12 **Police Chief George Hesse. The typewritten** 12:59:47
13 **version, Loeffler 8, is addressed to George** 12:59:49
14 **Hesse.** 12:59:52
15 **Do you know why the typewritten** 12:59:53
16 **version is not identical to your handwritten** 12:59:54
17 **version in that respect?** 12:59:56
18 MR. NOVIKOFF: If it's on advice of 12:59:57
19 counsel, just say "advice of counsel." 12:59:59
20 A. It's on advice of counsel. 13:00:01
21 **Q. Did you have any discussions with** 13:00:04
22 **Mary Anne Minerva concerning Loeffler 7 or** 13:00:06
23 **Loeffler 8?** 13:00:09
24 MR. NOVIKOFF: Any issue pertaining 13:00:10
25 to it or the actual formation of it? 13:00:11
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1 Loeffler
2 MR. GRAFF: The documents. Either 13:00:14
3 of these specific texts. 13:00:15
4 MR. NOVIKOFF: So is the question to 13:00:18
5 the mayor did he ever have a communication 13:00:19
6 with Mary Anne Minerva concerning the 13:00:21
7 drafting of this document as opposed to the 13:00:23
8 issues that may have been presented in this 13:00:27
9 document. 13:00:29
10 MR. GRAFF: If that would help the 13:00:29
11 witness, yes, concerning the drafting of 13:00:31
12 either of these two documents. 13:00:33
13 A. I drafted the document. 13:00:34
14 **Q. Did you have any communications with** 13:00:35
15 **Mary Anne Minerva in the course of drafting the** 13:00:37
16 **document?** 13:00:39
17 A. I did not. 13:00:39
18 **Q. How did you communicate bullets 6** 13:00:41
19 **through 8 to whoever it is who typed the** 13:00:43
20 **document?** 13:00:46
21 A. I don't recall. 13:00:46
22 **Q. On Loeffler 8 right underneath the** 13:01:13
23 **date it states: "As of 0000 hour March 27,** 13:01:15
24 **2007 until further notice your assignment will** 13:01:22
25 **be changed from active to modified duty."** 13:01:24
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1 Loeffler
2 MR. NOVIKOFF: Yes. 13:01:31
3 **Q. What, if anything, would prompt you 13:01:38**
4 **to provide further notice with respect to this 13:01:40**
5 **item to George Hesse? 13:01:42**
6 MR. NOVIKOFF: Objection. Form. 13:01:44
7 A. Ask -- would you repeat the question 13:01:49
8 for me. I'm not quite grasping it. 13:01:54
9 **Q. Why would you give further notice to 13:01:56**
10 **George Hesse that would alter his modified duty 13:01:58**
11 **statement? 13:02:02**
12 A. No, it says "and until further 13:02:02
13 notice." 13:02:04
14 **Q. Right. Were you contemplating any 13:02:04**
15 **circumstances that would lead you to provide 13:02:06**
16 **further notice in the future? 13:02:08**
17 MR. NOVIKOFF: It's a yes-or-no 13:02:10
18 question. 13:02:11
19 A. No. 13:02:12
20 THE VIDEOGRAPHER: Counselors, we 13:02:16
21 are at the end of the tape. 13:02:17
22 MR. GRAFF: Okay, so let's go off 13:02:18
23 the record, please. 13:02:20
24 THE VIDEOGRAPHER: We are now going 13:02:21
25 off the record. The time is 1:02 p.m. 13:02:22
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1 Loeffler
2 (Recess was taken from 1:02 to 13:02:25
3 1:13.) 13:02:25
4 THE VIDEOGRAPHER: We are back on 13:11:26
5 the record. The time is 1:13 p.m. This is 13:12:57
6 the beginning of the tape labeled number 3. 13:13:00
7 BY MR. GRAFF: 13:13:03
8 **Q. Mayor Loeffler, if I could ask you 13:13:04**
9 **to please turn your attention back to 13:13:05**
10 **Exhibit Loeffler 8, the very last paragraph, 13:13:08**
11 **"please sign the original of this 13:13:11**
12 **correspondence and return it to the Village 13:13:12**
13 **office within 48 hours after receipt." 13:13:14**
14 **Would you mind reading the very next 13:13:19**
15 **sentence. I'm not sure if I can see all the 13:13:22**
16 **words. 13:13:24**
17 A. "You accept" -- "your acceptance of 13:13:24
18 these conditions of modified stature are 13:13:26
19 required to maintain your employment. All 13:13:29
20 conditions are subject to change and review by 13:13:30
21 the Village, by the board of Trustees, and are 13:13:32
22 not to be viewed as an employment contract." 13:13:35
23 **Q. Okay. 13:13:37**
24 **And have the conditions set forth in 13:13:41**
25 **this document been changed by the Board of 13:13:43**
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1 Loeffler
2 **Trustees since March 26, 2007? 13:13:46**
3 A. No. 13:13:48
4 **Q. And when it states that "your 13:13:49**
5 **acceptance of these conditions of modified 13:13:52**
6 **stature are required to maintain your 13:13:54**
7 **employment," does that mean to Mr. Hesse's 13:13:57**
8 **employment would end if he were to violate any 13:13:59**
9 **of these terms? 13:14:02**
10 MR. NOVIKOFF: Objection. Calls for 13:14:03
11 speculation. Calls for possibly a legal 13:14:04
12 conclusion. 13:14:07
13 If you can answer it, you can answer 13:14:07
14 it. 13:14:09
15 A. If -- I don't understand exactly. 13:14:10
16 What are you asking me? 13:14:15
17 **Q. What would the consequences be, if 13:14:16**
18 **any, if George Hesse were to violate the terms 13:14:19**
19 **of this document? 13:14:19**
20 MR. NOVIKOFF: Note my objection. 13:14:20
21 For example, are you asking if George Hesse 13:14:21
22 came one day with his police shirt on 13:14:23
23 instead of proper casual attire, what would 13:14:25
24 be the consequences? 13:14:28
25 **Q. Let's ask about that specifically, 13:14:29**
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1 Loeffler
2 **sure. 13:14:31**
3 **What if George Hesse failed to 13:14:32**
4 **comply with the uniform of the day proper 13:14:34**
5 **casual attire, what, if any, commences would 13:14:36**
6 **there be? 13:14:38**
7 MR. NOVIKOFF: Note my objection. 13:14:39
8 Calls for speculation. 13:14:40
9 You can answer. 13:14:41
10 A. I'd send him home to change. 13:14:42
11 **Q. And what about number 6, what, if 13:14:46**
12 **any, consequences would there be if George 13:14:50**
13 **Hesse were to interact with members of the 13:14:52**
14 **general public pertaining to police functions 13:14:54**
15 **or duties? 13:14:57**
16 MR. NOVIKOFF: Note my objection. 13:14:57
17 A. I would remind him to refrain from 13:14:58
18 that, since he has agreed to it. 13:15:00
19 **Q. What about number 8? 13:15:02**
20 MR. NOVIKOFF: Calls for 13:15:05
21 speculation. 13:15:06
22 **Q. Okay. "No verbal or written 13:15:07**
23 **communication shall be made with reference to 13:15:09**
24 **police function of the department or any other 13:15:11**
25 **information pertaining to the operations or 13:15:12**
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1 Loeffler
2 policies of the Village of Ocean Beach." 13:15:14
3 MR. NOVIKOFF: Calls for 13:15:16
4 speculation. 13:15:17
5 Q. What, if any, consequences would 13:15:17
6 there be if George Hesse were to violate that? 13:15:19
7 MR. NOVIKOFF: Note my objection. 13:15:21
8 Calls for speculation. Calls for a legal 13:15:22
9 conclusion. 13:15:24
10 A. Until that happens I would have a 13:15:25
11 hard time telling you what would happen. 13:15:27
12 Q. And as far as you know, George Hesse 13:15:28
13 has not violated any of these conditions 1 13:15:30
14 through 8? 13:15:32
15 MR. NOVIKOFF: Asked and answered. 13:15:33
16 You can answer again. 13:15:33
17 A. That's correct. 13:15:35
18 MR. GRAFF: I am going to ask the 13:15:53
19 court reporter to mark as 13:15:54
20 Exhibit Loeffler 9 a one-page document 13:15:55
21 produced by Ocean Beach bearing Bates 13:15:57
22 number 5875. 13:15:59
23 (Loeffler Exhibit 9, Ratification 13:16:06
24 and Approval of Personnel, Bates stamped 13:16:06
25 005875, marked for identification.) 13:16:20
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1 Loeffler
2 Q. Mayor Loeffler, when Mr. Novikoff 13:16:20
3 finishes examining and you have had a chance to 13:16:23
4 review the document, could you tell me, please, 13:16:25
5 if you can identify it. 13:16:27
6 MR. NOVIKOFF: Note for the record 13:16:28
7 that this is apparently a page 5 of a 13:16:29
8 document. 13:16:32
9 You can answer the question as posed 13:16:34
10 now. 13:16:36
11 MR. GRAFF: Before you get to that 13:16:40
12 question, I'd like to, just for clarity 13:16:41
13 sake, call for the production of any pages 13:16:44
14 of any of the meeting minutes that were 13:16:46
15 produced to us as single pages or without 13:16:48
16 all pages. 13:16:52
17 MR. NOVIKOFF: I am not about to go 13:16:53
18 through our entire production to ascertain 13:16:54
19 what is complete or not complete. You tell 13:16:57
20 me what you want and I will take it under 13:16:59
21 advisement. 13:17:01
22 RQ MR. GRAFF: Sure. I want all the 13:17:02
23 pages of the document that's been marked as 13:17:04
24 Loeffler 9, all the pages of the document 13:17:06
25 that's been marked as Loeffler 3. 13:17:09
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1 Loeffler
2 MR. NOVIKOFF: Take it under 13:17:11
3 advisement. 13:17:12
4 (Document review.) 13:17:48
5 A. Yes. 13:17:48
6 Q. Can you identify this document, 13:17:49
7 please? 13:17:50
8 A. It purports to be page 5 of the 13:17:50
9 typed minutes of a Village board meeting. 13:17:55
10 Q. Have you seen this document before? 13:17:57
11 MR. NOVIKOFF: This one particular 13:17:58
12 page? 13:18:00
13 MR. GRAFF: Yes. 13:18:00
14 MR. NOVIKOFF: If you can answer it, 13:18:01
15 answer it. 13:18:03
16 A. I'm sure I have. 13:18:04
17 Q. And when you saw it, did it have the 13:18:05
18 handwritten notations in the left-hand margin? 13:18:09
19 A. I don't believe it did. 13:18:11
20 Q. Can you identify the handwriting? 13:18:15
21 A. No, I can't. 13:18:18
22 Q. Can you make out any of the words 13:18:20
23 that are in the margin there? 13:18:23
24 A. It says "Kara Arta" and then it says 13:18:25
25 "Arta." They are both employees of the Village 13:18:28
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1 Loeffler
2 of Ocean Beach. 13:18:31
3 Q. Are those two different people? 13:18:31
4 A. Yes. 13:18:33
5 Q. Kara and Arta? 13:18:33
6 A. Yes. 13:18:34
7 Q. Who is Kara? 13:18:35
8 A. Kara is a clerk in the office. 13:18:35
9 Q. And what is Kara's full name? 13:18:39
10 A. Kara McKenna. 13:18:41
11 Q. And what is Arta's full name? 13:18:46
12 A. Wejien. It's W-E-J --I can get the 13:18:48
13 correct spelling for you. W-E-J-E-N-I-N or 13:18:56
14 something, I guess. 13:19:00
15 Q. And what is Arta's position, Arta 13:19:01
16 Wejien? 13:19:04
17 A. She is the deputy treasurer. Deputy 13:19:05
18 treasurer. Accounts payable clerk too. 13:19:10
19 Q. At the very top of this page of the 13:19:24
20 document: "Ratification approval of personnel, 13:19:26
21 Trustee Mallott moved as follows, whereas 13:19:29
22 Mary Anne Minerva, Village administrator, has 13:19:31
23 provided a report to the Board of Trustees 13:19:33
24 detailing and listing new hires, has requested 13:19:36
25 ratification and approval by the Board of 13:19:39
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1 Loeffler
2 Trustees for said new hires." 13:19:41
3 Mayor Loeffler, do you know what the 13:19:43
4 report provided by Mary Anne Minerva as 13:19:45
5 referenced in this document is? 13:19:47
6 A. No, I don't. 13:19:49
7 Q. Do you recall Mary Anne Minerva 13:19:55
8 delivering any kind of report with respect to 13:19:57
9 this matter? 13:20:00
10 A. I don't recall, no. 13:20:01
11 Q. The new hires that are identified 13:20:02
12 here, Trosko, Paul OBPD, F/T; underneath that, 13:20:08
13 Foti, Francis OBPD, F/T, are those the 13:20:13
14 full-time officers that were hired that were 13:20:18
15 discussed -- the hiring of which was discussed 13:20:20
16 at your first meeting with Mr. Schneider? 13:20:22
17 A. No. Let me correct myself. It -- 13:20:25
18 I'm not sure if they -- these gentlemen were 13:20:43
19 part-time employees who became full-time 13:20:48
20 employees. 13:20:50
21 Q. And did they become full-time 13:20:51
22 employees at or around the date of the 13:20:53
23 document, January 27th, '07? 13:20:57
24 A. Yes, they did. 13:20:58
25 Q. And do you know why they were made 13:20:59
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1 Loeffler
2 full-time employees at that time? 13:21:03
3 A. Because of the direction that I 13:21:05
4 wanted the Police Department to go, to hire 13:21:13
5 full-time employees instead of using part-time 13:21:15
6 and seasonal employees. 13:21:17
7 Q. And did your meeting with 13:21:18
8 Mr. Schneider take place before or after 13:21:20
9 January 27th, 2007, the date of this document? 13:21:21
10 A. Before. 13:21:26
11 Q. So was the hiring of these two 13:21:28
12 individuals as full-time officers in compliance 13:21:31
13 with whatever requirements were communicated to 13:21:34
14 you by Mr. Schneider? 13:21:36
15 A. Yes, they were. 13:21:37
16 Q. And as of the date of this document, 13:21:39
17 did you know who Paul Trosko was? 13:21:41
18 A. Yes. 13:21:44
19 Q. In what context did you first meet 13:21:45
20 Paul Trosko? 13:21:49
21 A. He was a part-time police officer in 13:21:50
22 the Village of Ocean Beach. 13:21:52
23 Q. And you met him during his 13:21:53
24 employment as a police officer? 13:21:55
25 A. Yes. 13:21:56
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1 Loeffler
2 Q. What about Francis Foti? 13:21:56
3 A. The same. 13:21:58
4 Q. You also met him -- 13:22:01
5 A. As a part-time police officer. 13:22:04
6 Q. Underneath that section, the very 13:22:05
7 next section is adoption of Police Department 13:22:08
8 rules and procedures. It says: "Mayor 13:22:09
9 Loeffler moved as follows. Whereas the Village 13:22:11
10 of Ocean Beach has determined that it is in the 13:22:14
11 best interests of the Village to have a written 13:22:16
12 set of rules and procedures for the Ocean Beach 13:22:17
13 Police Department and whereas the Village has 13:22:19
14 undertaken to prepare a set of rules and 13:22:21
15 procedures, now, therefor it is hereby resolved 13:22:23
16 that the Village hereby adopts these submitted 13:22:26
17 Ocean Beach department rules and procedures." 13:22:28
18 Mayor Loeffler, do you know what the 13:22:31
19 rules and procedures referenced in this section 13:22:32
20 are? 13:22:34
21 A. Yes, the Ocean Beach Police 13:22:35
22 Department rules and procedures. 13:22:37
23 Q. And is that the police manual that 13:22:38
24 was issued in 2006? 13:22:40
25 A. Yes. Well, it was -- a draft was 13:22:40
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1 Loeffler
2 issued in 2006. It was finalized as of this 13:22:45
3 date. 13:22:48
4 Q. And at what point in relation to 13:22:48
5 January 27, 2007 was it distributed to the 13:22:50
6 Ocean Beach Police Department officers? 13:22:53
7 A. Upon its authorized issuance. 13:22:55
8 Q. Was there any discussion among the 13:22:58
9 Board of Trustees upon your making of this 13:23:07
10 motion? 13:23:10
11 MR. NOVIKOFF: Objection to the 13:23:11
12 form. 13:23:12
13 A. There was discussion with the 13:23:15
14 trustees that was carried out in the executive 13:23:18
15 session with the advice of counsel, yes, with 13:23:20
16 reference to this policy manual. 13:23:24
17 Q. Other than in conversations that 13:23:27
18 took place in the presence of counsel for the 13:23:29
19 purpose of obtaining legal advice, did you have 13:23:31
20 any conversations with any members of the Board 13:23:33
21 of Trustees concerning the adoption of the 13:23:36
22 Police Department manual? 13:23:40
23 A. Yes. 13:23:40
24 Q. And which members of the Board of 13:23:41
25 Trustees did you discuss that with? 13:23:43
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1 Loeffler
2 A. All of them. 13:23:44
3 Q. Individually? 13:23:44
4 A. Together. At the board meeting. 13:23:45
5 Q. And was that in executive session or 13:23:49
6 general session? 13:23:51
7 A. No, we discussed this in public. 13:23:52
8 Q. And what was discussed in public? 13:23:53
9 A. I expressed my -- the need that I 13:23:55
10 felt that the Police Department needed to have 13:23:58
11 a written policy manual in place and that this 13:24:01
12 had taken a year to develop it and it was now 13:24:04
13 in the final stages, it had been reviewed, it 13:24:07
14 had been put into draft form, it had been 13:24:10
15 rereviewed, it had been updated, and it was in 13:24:12
16 a final document presentation form and at this 13:24:15
17 time I presented it to the board to be 13:24:18
18 finalized. 13:24:20
19 Q. Does the substance of the Police 13:24:21
20 Department -- if I say "manual," do we know 13:24:34
21 what -- 13:24:36
22 A. We know it was filed. 13:24:37
23 Q. Okay. Does the substance of the 13:24:38
24 Police Department manual relate in any way to 13:24:39
25 any requirements of the Civil Service 13:24:42
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1 Loeffler
2 Department with respect to the Ocean Beach 13:24:45
3 Police Department? 13:24:46
4 A. No, it does not. 13:24:46
5 Q. Is the manual -- when it was 13:24:47
6 distributed to Ocean Beach police officers, was 13:24:52
7 it bound? 13:24:54
8 A. Yes. 13:24:55
9 Q. So was it sent to a printer and 13:24:55
10 published in a bound book-like form? 13:25:00
11 MR. NOVIKOFF: Objection to the form 13:25:03
12 of the question. 13:25:05
13 A. It's in a ring binder form. 13:25:05
14 Q. Binder. 13:25:05
15 RQ MR. GRAFF: I'd also like to call 13:25:07
16 for the production of the complete manual. 13:25:09
17 MR. NOVIKOFF: Take it under 13:25:11
18 advisement. 13:25:11
19 Q. Did you review any of the specific 13:25:16
20 policies set forth in the police manual with 13:25:19
21 any of the members of the Village board of 13:25:22
22 Trustees? 13:25:26
23 A. No. 13:25:26
24 Q. Other than yourself, were any 13:25:29
25 members of the Board of Trustees -- did any 13:25:32
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1 Loeffler
2 members of the Board of Trustees contribute to 13:25:36
3 the drafting of f authorship of the police 13:25:38
4 manual? 13:25:41
5 MR. NOVIKOFF: Objection to form. 13:25:41
6 A. I believe members of the board 13:25:42
7 expressed concern and jubilation in the fact 13:25:50
8 that we were taking a huge step into bringing 13:25:54
9 the Police Department to a level that allowed 13:25:58
10 for some accountability in the actions of 13:26:00
11 police officers and that -- do you want me to 13:26:04
12 finish or do you want to interrupt me? 13:26:07
13 Q. Please. 13:26:08
14 A. And I believe they reviewed the 13:26:09
15 policy manual prior to its adoption and were 13:26:12
16 grateful for my efforts and the efforts of the 13:26:16
17 Police Department and the officers for 13:26:18
18 producing such a document. 13:26:19
19 Q. Are you done? 13:26:21
20 A. Yes, I'm done. 13:26:22
21 Q. I may have misheard earlier on. Did 13:26:23
22 you say concern and jubilation? 13:26:26
23 A. Yes. Concern that we hadn't done 13:26:29
24 this before. 13:26:31
25 MR. GRAFF: Okay. You can put aside 13:26:47
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1 Loeffler
2 this document. Thank you. 13:26:48
3 MR. NOVIKOFF: It's already been put 13:26:51
4 aside. 13:26:52
5 MR. GRAFF: Excuse me? 13:26:52
6 MR. NOVIKOFF: It's already been put 13:26:52
7 aside. 13:26:52
8 MR. GRAFF: I am going to ask the 13:26:57
9 court reporter to please mark as 13:26:59
10 Exhibit Loeffler 10 a one-page document 13:27:03
11 produced to us by Ocean Beach bearing Bates 13:27:06
12 number 9809. 13:27:08
13 (Loeffler Exhibit 10, Accept the NYS 13:27:11
14 Department of State's Proposed Responses on 13:27:11
15 the Local Waterfront Revitalization 13:27:11
16 Program, Bates stamped 009809, marked for 13:27:11
17 identification.) 13:27:11
18 MR. NOVIKOFF: And do you want the 13:27:34
19 witness to look at this document? 13:27:36
20 Q. Yes. As with all of the documents, 13:27:37
21 if you could take as much time to review it and 13:27:40
22 then let me know if you recognize it. 13:27:42
23 MR. NOVIKOFF: And while the witness 13:27:43
24 is looking at it, just let the record 13:27:44
25 reflect that this is purportedly a page 3 13:27:46
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1 Loeffler
2 of a document. 13:27:49
3 **RQ MR. GRAFF: And we will call for the** 13:27:51
4 **production of any other pages of this** 13:27:52
5 **document that exist.** 13:27:54
6 **MR. NOVIKOFF: Take it under** 13:27:55
7 **advisement.** 13:27:56
8 **Q. Mayor Loeffler, can you identify the** 13:28:06
9 **document?** 13:28:08
10 **A. It appears to be page 3 of a** 13:28:09
11 **production of the minutes of the Village board** 13:28:15
12 **meeting that occurred on June 23rd, 2007.** 13:28:17
13 **Q. If I could direct your attention to** 13:28:21
14 **the last subheading on the document, Adoption** 13:28:24
15 **of Police Department Rules and Procedures** 13:28:27
16 **Update, "Trustee Mallott moved as follows."** 13:28:28
17 **Do you recall anything of the events** 13:28:31
18 **that are described in the following paragraph** 13:28:35
19 **there?** 13:28:37
20 **MR. NOVIKOFF: Oh, you want him to** 13:28:37
21 **read the events of what transpired after** 13:28:39
22 **Trustee Mallott moved as follows --** 13:28:42
23 **MR. GRAFF: Yes.** 13:28:42
24 **MR. NOVIKOFF: -- and tell you if he** 13:28:43
25 **recalls any of it?** 13:28:44
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1 Loeffler
2 **MR. GRAFF: That's exactly what I** 13:28:44
3 **asked.** 13:28:46
4 **MR. NOVIKOFF: Sure.** 13:28:46
5 **Go ahead.** 13:28:47
6 **(Document review.)** 13:28:59
7 **A. Okay.** 13:28:59
8 **Q. Do you recall any of the events that** 13:29:08
9 **are described here?** 13:29:10
10 **A. Yes, I do.** 13:29:11
11 **Q. One of things that's described here** 13:29:13
12 **is an update that had been prepared pertaining** 13:29:19
13 **to domestic incidents and domestic violence.** 13:29:22
14 **Do you recall what that refers to?** 13:29:25
15 **A. Yes, I do.** 13:29:26
16 **Q. What does that refer to?** 13:29:27
17 **A. It refers to the handling of** 13:29:27
18 **domestic incident and domestic violence calls** 13:29:28
19 **which was updated in the policy manual. The** 13:29:31
20 **policy manual is a living, breathing document** 13:29:33
21 **that is constantly updated as circumstances** 13:29:35
22 **require that to be. If there was a shortfall** 13:29:38
23 **in the document and we notice it, we make a** 13:29:41
24 **modification to it. The document then is** 13:29:44
25 **presented to the Village board as an addendum** 13:29:46
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1 Loeffler
2 **or an amendment to the policy manual, it's** 13:29:49
3 **inserted, and then a copy of that addendum is** 13:29:52
4 **given to all the people that signed for it, all** 13:29:55
5 **the officers that signed for that document to** 13:29:58
6 **be inserted into their copy of the policy** 13:29:59
7 **manual.** 13:30:01
8 **Q. And who prepared this update that's** 13:30:02
9 **referenced here?** 13:30:04
10 **A. I believe it may have been -- I** 13:30:06
11 **don't know whether it was George Hesse or Paul** 13:30:14
12 **Trosko.** 13:30:16
13 **Q. Did you direct either of those** 13:30:17
14 **people to prepare this update?** 13:30:19
15 **A. What I directed them to do was the** 13:30:21
16 **Ocean Beach Police Department is attempting to** 13:30:23
17 **become an accredited police agency. It's a** 13:30:25
18 **defined term in the State of New York. And in** 13:30:29
19 **doing so there are certain requirements that** 13:30:32
20 **need to be done. One of them is to constantly** 13:30:34
21 **update and keep the policy manual in conformity** 13:30:37
22 **with state law and provisions of the law and** 13:30:40
23 **that's what they do. From time to time this** 13:30:43
24 **has been -- this is not the only update, I** 13:30:44
25 **believe, that's been done to the manual.** 13:30:46
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1 Loeffler
2 **Q. And with respect to this particular** 13:30:48
3 **update, was it updating an existing section** 13:30:50
4 **pertaining to domestic incidents and domestic** 13:30:53
5 **violence, or was that a new section?** 13:30:56
6 **A. I believe it was updating an** 13:31:00
7 **existing.** 13:31:03
8 **Q. Was Trustee Mallott involved at all** 13:31:04
9 **in this update to the department manual?** 13:31:07
10 **A. No.** 13:31:11
11 **Q. Do you know why Trustee Mallott made** 13:31:11
12 **the motion for this update?** 13:31:13
13 **MR. NOVIKOFF: Other than wanting to** 13:31:15
14 **approve it? I mean, objection to the form.** 13:31:16
15 **A. I guess because it was his turn to** 13:31:21
16 **read.** 13:31:23
17 **Q. Let's put aside Loeffler 10.** 13:31:28
18 **MR. NOVIKOFF: With pleasure.** 13:31:28
19 **Q. Do you recall who determined that** 13:31:34
20 **that section should be updated?** 13:31:35
21 **A. No.** 13:31:36
22 **Q. Did you have any discussions with** 13:31:37
23 **anyone other than Paul Trosko or George Hesse** 13:31:42
24 **or members of the Board of Trustees concerning** 13:31:45
25 **this update?** 13:31:47
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1 Loeffler
2 A. No. 13:31:47
3 **Q. Did you have any discussion with 13:31:48**
4 **members of the Board of Trustees concerning 13:31:50**
5 **this update? 13:31:52**
6 A. Probably not. 13:31:53
7 **Q. Are you aware of any specific 13:31:57**
8 **incidents of domestic abuse or violence that 13:32:03**
9 **were handled by the Ocean Beach Police 13:32:07**
10 **Department during your service as trustee? 13:32:08**
11 A. No, I am not. 13:32:10
12 **Q. What about during your service as 13:32:11**
13 **mayor? 13:32:14**
14 A. The Ocean Beach Police Department 13:32:14
15 has responded to incidents of domestic violence 13:32:18
16 since I've been mayor from 2006 to the present. 13:32:22
17 **Q. Are you aware of any specific 13:32:24**
18 **instances? 13:32:26**
19 A. I am not aware of any specific 13:32:27
20 instance. 13:32:28
21 MR. GRAFF: I am going to ask the 13:32:36
22 court reporter to please mark as 13:32:37
23 Exhibit Loeffler 11 a document produced to 13:32:39
24 us by Ocean Beach bearing Bates numbers 13:32:41
25 2652 through 2661. 13:32:44
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1 Loeffler
2 (Loeffler Exhibit 12, Section 1: 13:32:47
3 Discipline/Charges and Specifications, 13:32:47
4 Bates stamped 2652 through 2661, marked for 13:32:47
5 identification.) 13:33:09
6 **Q. Mayor Loeffler, when you have had a 13:33:09**
7 **chance to review the document, I am not going 13:33:12**
8 **to ask about any specific provisions. My only 13:33:13**
9 **question is if you can tell me what this 13:33:16**
10 **document is, where it comes from. 13:33:18**
11 MR. NOVIKOFF: So are you asking the 13:33:20
12 witness once I review it to review it 13:33:22
13 himself? 13:33:25
14 MR. GRAFF: As much as he needs to 13:33:25
15 to tell me if he recognizes it and what it 13:33:27
16 is. 13:33:29
17 MR. NOVIKOFF: Okay. You got it. 13:33:29
18 Here you go (handing). Read away. 13:33:30
19 **Q. Actually, if I could be more 13:33:38**
20 **specific, I am going to ask now just about the 13:33:40**
21 **first page of the document, 2652. 13:33:42**
22 MR. NOVIKOFF: So you don't want the 13:33:45
23 witness to review it to see if he 13:33:46
24 recognizes the document? 13:33:47
25 **Q. I am going to start with the first 13:33:48**
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1 Loeffler
2 **page of the document. If you could review the 13:33:50**
3 **very first page and tell me if you can -- if 13:33:51**
4 **you recognize it. 13:33:53**
5 MR. NOVIKOFF: Recognize the first 13:33:53
6 page? 13:33:54
7 MR. GRAFF: The first page. 13:33:55
8 MR. NOVIKOFF: Independent of the 13:33:55
9 other eight pages? 13:33:57
10 MR. GRAFF: Yes. 13:33:58
11 A. I don't think I can do that. Right 13:33:59
12 from here I don't -- I would need to review the 13:34:01
13 whole document. 13:34:03
14 **Q. Okay, if you need to review the full 13:34:03**
15 **document, please do. 13:34:06**
16 A. It's only... 13:34:07
17 (Document review.) 13:34:16
18 **Q. Mayor Loeffler, can you tell me what 13:35:35**
19 **this document is? 13:35:37**
20 A. I'm not positive, no, I'm not. Do 13:35:38
21 you want to tell me what it is? 13:35:41
22 **Q. I don't know. That's why I am 13:35:43**
23 **asking you. 13:35:44**
24 A. Oh. It may be -- 13:35:45
25 MR. NOVIKOFF: Don't guess. 13:35:46
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1 Loeffler
2 A. I'm not positive without seeing this 13:35:47
3 in its proper context. 13:35:49
4 RQ MR. GRAFF: It's like to call for 13:35:51
5 the production of the balance of whatever 13:35:52
6 this document came from. 13:35:53
7 THE WITNESS: It's the policy 13:35:55
8 manual. 13:35:56
9 **Q. Is it possible that this is part of 13:35:56**
10 **the Police Department policy manual? 13:35:59**
11 A. Yes, it is. 13:36:00
12 MR. NOVIKOFF: Objection. 13:36:01
13 You can answer. Is it possible? 13:36:01
14 A. Yes, it is. 13:36:02
15 **Q. Do you recognize any specific page 13:36:03**
16 **of it as part of the policy manual? 13:36:05**
17 MR. NOVIKOFF: I mean, the question 13:36:07
18 I have, Ari, is you have asked me on behalf 13:36:10
19 of my client to produce the entirety of 13:36:12
20 this document of which the mayor is not 13:36:14
21 absolutely sure what it is and certainly I 13:36:17
22 don't know what it is. So I will endeavor 13:36:19
23 upon taking your request under advisement 13:36:22
24 to look for something that this may be 13:36:25
25 included in, but I can't tell you that I 13:36:30
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1 Loeffler
2 would know where to begin to look or my 13:36:32
3 client would know where to begin to look. 13:36:35
4 MR. GRAFF: Okay. I believe I noted 13:36:37
5 for the record, but this document was one 13:36:40
6 produced by Ocean Beach which is why -- 13:36:42
7 MR. NOVIKOFF: No, I understand 13:36:44
8 that. I'm not -- I'm not questioning for a 13:36:45
9 moment that we produced it, but I can't 13:36:49
10 tell you for certainty right now where this 13:36:52
11 came from, so, I mean, I am going to do 13:36:55
12 what I have to do as I am required under 13:36:58
13 the federal rules, but I think the request 13:37:00
14 is a little bit broad to ask me as counsel 13:37:02
15 to request that my client search for the 13:37:04
16 document in which this document is 13:37:09
17 contained in, but I'll take it under 13:37:11
18 advisement. 13:37:13
19 A. It -- 13:37:15
20 MR. NOVIKOFF: Don't guess. No 13:37:17
21 question pending. Don't worry. 13:37:19
22 **Q. If you could please say what you had 13:37:19**
23 **started saying. 13:37:22**
24 MR. NOVIKOFF: No. There is no 13:37:22
25 question pending. 13:37:24
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1 Loeffler
2 MR. GRAFF: That's the question. 13:37:25
3 MR. NOVIKOFF: Say what you were 13:37:25
4 going to say? 13:37:26
5 MR. GRAFF: What you had started 13:37:27
6 saying, yes. 13:37:28
7 MR. NOVIKOFF: How about if he was 13:37:28
8 going to say he thought your questions were 13:37:30
9 foolish, do you want him to say that? 13:37:32
10 **Q. Is that what you were going to say? 13:37:32**
11 A. No. 13:37:34
12 **Q. Could you please finish saying what 13:37:35**
13 **you had started saying? 13:37:37**
14 A. I was under the impression that this 13:37:38
15 may be part of the policy manual, but I -- not 13:37:40
16 seeing it in this context and reading it, I 13:37:43
17 don't -- I can't be sure of that, but it may 13:37:46
18 be. 13:37:49
19 **Q. Okay. Thank you, Mayor Loeffler. 13:37:49**
20 **We could put aside Loeffler 11. 13:37:51**
21 A. 12. I'm sorry. It says 12 on it. 13:37:55
22 MR. GRAFF: Loeffler 12. Excuse me. 13:37:57
23 Where is the stamped copy of
24 Loeffler 11?
25 MR. NOVIKOFF: I do not know.
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1 Loeffler
2 MR. JEMAL: I think we skipped one.
3 THE COURT REPORTER: Can we go off
4 the record for a second.
5 MR. GRAFF: Yes, please.
6 THE VIDEOGRAPHER: Going off the
7 record. The time is 1:38 p.m.
8 (Discussion off the record.) 13:39:11
9 THE VIDEOGRAPHER: We are back on 13:39:11
10 the record. The time is 1:39 p.m. 13:39:18
11 MR. GRAFF: And to clarify for the 13:39:20
12 record, the last document that had been 13:39:22
13 presented to the witness I had indicated 13:39:24
14 that it should be marked as 11, but it's 13:39:25
15 actually marked Loeffler 12. It bears 13:39:28
16 Bates numbers 2652 to 2661. 13:39:30
17 And if I could now ask the court 13:39:34
18 reporter to please mark as Exhibit Loeffler 13:39:35
19 11 a one-page document produced by Ocean 13:39:36
20 Beach bearing Bates number 9810. 13:39:38
21 (Loeffler Exhibit 11, Resolution No. 13:40:02
22 2008-18, Bates stamped 009810, marked for 13:40:02
23 identification.) 13:40:25
24 **Q. Mayor Loeffler, when you have had a 13:40:25**
25 **chance to look at the document, could you tell 13:40:26**
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1 Loeffler
2 **me, please, what the document is? 13:40:28**
3 A. It's a copy of the board resolution 13:40:30
4 2008-18 dated March 8th of 2008 and attested to 13:40:33
5 by Mary Anne Minerva, Village administrator, 13:40:41
6 clerk and treasurer. 13:40:44
7 **Q. The document relates to additional 13:40:45**
8 **updates to the police manual; is that correct? 13:40:46**
9 A. That's what it -- yes. 13:40:49
10 **Q. Who prepared the updates that are 13:40:49**
11 **referenced in this document? 13:40:51**
12 MR. NOVIKOFF: Who typed them, who 13:40:53
13 drafted them? 13:40:55
14 **Q. Who drafted those sections that are 13:40:56**
15 **updated? 13:40:57**
16 A. I would imagine they came from -- 13:40:58
17 they came from the Police Department. 13:41:07
18 **Q. Which Police Department? 13:41:08**
19 A. Ocean Beach Police Department. 13:41:10
20 **Q. Do you know who specifically at the 13:41:11**
21 **Ocean Beach Police Department? 13:41:14**
22 A. I don't recall. 13:41:15
23 **Q. Do you recall whether you reviewed 13:41:16**
24 **these sections before they were updated? 13:41:18**
25 A. Absolutely. 13:41:20
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1 Loeffler
2 **Q. Do you recall what any of these 13:41:21**
3 **sections relate to? 13:41:23**
4 MR. NOVIKOFF: As he sits here 13:41:24
5 today? 13:41:25
6 MR. GRAFF: Yes. 13:41:25
7 A. Absolutely not. 13:41:26
8 MR. GRAFF: Okay, let's put aside 13:41:31
9 Loeffler 11. 13:41:33
10 Can I ask the videographer what time 13:41:41
11 it is? 13:41:43
12 THE VIDEOGRAPHER: It is 1:42 p.m. 13:41:44
13 MR. NOVIKOFF: Your call. We can 13:41:47
14 stop now, if you want. 13:41:48
15 MR. GRAFF: Could I ask the court 13:41:50
16 reporter -- 13:41:52
17 MR. NOVIKOFF: I think she wanted to 13:41:52
18 stop about an hour ago. 13:41:54
19 MR. GRAFF: Yes. Why don't we break 13:41:56
20 for lunch at this point. The time is 1:42. 13:41:57
21 Counsel, when would you like to resume? 13:42:00
22 MR. NOVIKOFF: Between 2:30 and 13:42:02
23 2:45. 13:42:04
24 MR. GRAFF: Great. 13:42:04
25 THE VIDEOGRAPHER: Going off the 13:42:05
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1 Loeffler
2 record. The time is 1:42 p.m. 13:42:05
3 (Mr. Novikoff exits.) 13:42:07
4 (Lunch recess was taken from 1:42 to 13:42:07
5 2:37.) 13:42:08
6 THE VIDEOGRAPHER: We are back on 14:36:05
7 the record. The time is 2:37 p.m. 14:36:30
8 CONTINUED EXAMINATION BY 14:36:30
9 MR. GRAFF: 14:36:34
10 **Q. Good afternoon, again, Mayor 14:36:35**
11 **Loeffler. 14:36:37**
12 A. Good afternoon. 14:36:37
13 **Q. Prior to the time when Ed Paradiso 14:36:38**
14 **sustained the injury that led to him going out 14:36:44**
15 **on disability leave, did you have any knowledge 14:36:46**
16 **with respect to his performance as police chief 14:36:48**
17 **in Ocean Beach? 14:36:51**
18 MR. WELCH: Objection. Form. 14:36:54
19 You can answer. 14:36:55
20 A. I guess he was doing a pretty good 14:36:56
21 job. 14:37:03
22 **Q. Did you ever -- as you sit here 14:37:04**
23 **today, do you have any knowledge with respect 14:37:11**
24 **to Gary Bosetti's performance as a police 14:37:13**
25 **officer in Ocean Beach? 14:37:15**
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1 Loeffler
2 A. No, I don't. 14:37:16
3 **Q. As you sit here today, do you have 14:37:17**
4 **any knowledge with respect to Richard Bosetti's 14:37:18**
5 **performance as a police officer in Ocean Beach? 14:37:21**
6 A. No, I don't know. I do not. 14:37:23
7 **Q. Do you know whether Richard Bosetti 14:37:24**
8 **was ever disciplined formally or informally for 14:37:26**
9 **sleeping on the job while on duty as a police 14:37:31**
10 **officer in Ocean Beach? 14:37:33**
11 MR. WELCH: Objection. Form. 14:37:34
12 You can answer. 14:37:35
13 A. Was it Richard or Gary? One of them 14:37:36
14 was. 14:37:42
15 **Q. And could you describe the context 14:37:42**
16 **in which one of them was disciplined for that? 14:37:46**
17 MR. WELCH: Objection. 14:37:49
18 You can answer. 14:37:51
19 A. One morning I went into the fire 14:37:52
20 hall, which is near the police station, and I 14:37:56
21 thought it was Gary, maybe it was Richie, was 14:38:00
22 lying on the couch watching TV. Apparently it 14:38:04
23 looked to me like he was sleeping, 9:00 in the 14:38:08
24 morning. I startled him. I got the ice out of 14:38:11
25 the ice machine, because I was going to go out 14:38:15
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1 Loeffler
2 fishing, and he got up. Went back to the 14:38:19
3 Village office. I told George Hesse to come 14:38:22
4 over with Officer Bosetti and I explained to 14:38:25
5 him when he got there that his conduct was 14:38:30
6 unacceptable and we were having enough problems 14:38:34
7 in Ocean Beach without having police officers 14:38:36
8 who were sleeping on the job, which I thought 14:38:37
9 he was doing, and that if this conduct were to 14:38:41
10 continue, you know, there would be some 14:38:46
11 consequences to it and I told George Hesse at 14:38:49
12 the time that -- of the incident and what 14:38:54
13 happened and he said he would handle it. 14:38:58
14 **Q. And do you have any information with 14:39:00**
15 **respect to how or whether George Hesse handled 14:39:02**
16 **that situation after that conversation? 14:39:05**
17 A. I'm not sure what he did. 14:39:07
18 **Q. Do you know how long -- for what 14:39:09**
19 **period of time following that conversation the 14:39:16**
20 **Bosetti at issue continued to work as a police 14:39:20**
21 **officer in Ocean Beach? 14:39:24**
22 A. No, I don't. It wasn't a long 14:39:25
23 period of time after that. 14:39:27
24 **Q. Did the Bosetti at issue indicate 14:39:28**
25 **why he might have been sleeping at 9 in the 14:39:34**
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1 Loeffler
2 morning that day? 14:39:36
3 MR. WELCH: Object to the form. 14:39:37
4 You can answer. 14:39:39
5 A. I believe he told me he was just 14:39:42
6 catching up on the news on the television, he 14:39:45
7 wasn't really sleeping. I didn't -- the 14:39:47
8 answer, to me, didn't portray that he was 14:39:50
9 catching up on the news. I thought he was 14:39:52
10 sleeping. 14:39:54
11 Q. Do you know whether there was any 14:39:55
12 event or function involving the Ocean Beach 14:40:01
13 Police Department the day or the night prior to 14:40:03
14 the incident? 14:40:06
15 A. I don't know. 14:40:08
16 Q. Do you know whether there was an 14:40:08
17 event in connection with fund-raising for a 14:40:12
18 legal defense fund involving the Ocean Beach 14:40:15
19 Police Department the night before? 14:40:18
20 A. No, I don't. 14:40:19
21 Q. To your knowledge, has the Ocean 14:40:21
22 Beach Police Department ever participated in 14:40:23
23 any fund-raising activities for any legal 14:40:24
24 defense fund that you are aware of? 14:40:28
25 MR. WELCH: Objection. Do you have 14:40:30
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1 Loeffler
2 You can answer. 14:41:22
3 A. Two contributions. 14:41:24
4 Q. And what was the amount of the first 14:41:25
5 contribution? 14:41:27
6 A. I am trying to think. I'd have to 14:41:27
7 check my checkbook to make sure. 14:41:36
8 Q. Could you say whether it was more 14:41:38
9 than a thousand dollars? 14:41:40
10 A. No, it was not more than a thousand 14:41:41
11 dollars. 14:41:42
12 Q. What about the second contribution? 14:41:42
13 A. Neither one were more than a 14:41:44
14 thousand dollars. 14:41:45
15 Q. And do you know who has received 14:41:46
16 funds from the legal defense fund for legal 14:41:48
17 defense? 14:41:51
18 A. No, I don't. 14:41:52
19 Q. Do you know whether there is any 14:41:52
20 video surveillance system within the Ocean 14:42:01
21 Beach Police Department facility? 14:42:05
22 MR. WELCH: Today? Or at any time? 14:42:06
23 Q. At any time during your service as 14:42:09
24 mayor. 14:42:11
25 MR. WELCH: As mayor. 14:42:12
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1 Loeffler
2 a time frame? 14:40:30
3 Q. During the period of your service as 14:40:31
4 mayor of Ocean Beach. 14:40:34
5 A. There is -- there is a legal defense 14:40:35
6 fund that's not -- it's not associated with the 14:40:37
7 Police Department, that was set up to raise 14:40:40
8 money for the defense of certain police 14:40:42
9 officers. 14:40:45
10 Q. And was it set up to serve for the 14:40:45
11 defense of certain specific police officers? 14:40:48
12 A. No. 14:40:50
13 Q. Who administers that fund? 14:40:50
14 A. I believe George Rehn, who is a CPA, 14:40:53
15 is the administrator of that fund. He has an 14:41:01
16 office in Ocean Beach. 14:41:04
17 Q. Do you know when that fund was 14:41:05
18 created? 14:41:07
19 A. '07, I'd say. 14:41:07
20 Q. Have you ever contributed to that 14:41:12
21 fund? 14:41:14
22 A. Yes, I have. 14:41:15
23 Q. How many different contributions 14:41:17
24 have you made to that fund? 14:41:20
25 MR. WELCH: Objection to form. 14:41:21
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1 Loeffler
2 A. Absolutely, yes. 14:42:14
3 Q. And what about during your service 14:42:15
4 as trustee? 14:42:17
5 A. I don't know. 14:42:18
6 Q. Have you ever seen any video 14:42:20
7 surveillance footage recorded by a camera in 14:42:22
8 the Ocean Beach Police Department? 14:42:25
9 A. Yes, I have. 14:42:26
10 Q. And what area of the Police 14:42:27
11 Department was depicted in that video? 14:42:29
12 A. The station house, the desk area, 14:42:32
13 the cell area and the squad room. 14:42:39
14 Q. Were you able to determine how many 14:42:41
15 cameras were -- strike that. 14:42:44
16 Why did you review video from the 14:42:52
17 surveillance camera in the Ocean Beach Police 14:42:54
18 Department? 14:42:57
19 A. Because I had the Police Department 14:42:57
20 purchase it. 14:42:59
21 Q. And why did you have it purchased? 14:42:59
22 A. Because the equipment that they had 14:43:02
23 prior to this I was told was not functioning 14:43:04
24 properly, so I had to -- I authorized the 14:43:08
25 Police Department to buy all new equipment. 14:43:10
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1 Loeffler
2 Q. And when did they -- when did you 14:43:13
3 authorize that? 14:43:14
4 A. 2006. 14:43:15
5 Q. And do you recall any specific 14:43:19
6 conduct that was depicted in the video that you 14:43:21
7 reviewed? 14:43:25
8 A. No, I just reviewed its set-up. 14:43:25
9 Q. Did George Hesse ever show you any 14:43:33
10 video that had been recorded from the 14:43:36
11 surveillance cameras inside the -- 14:43:38
12 A. Yes. 14:43:38
13 Q. What video did George Hesse show 14:43:39
14 you? 14:43:41
15 A. I saw some video of -- in one 14:43:41
16 Memorial Day someone stole the memorial wreaths 14:43:46
17 that were delivered to the Village to be put at 14:43:50
18 the memorial site and they had surveillance 14:43:52
19 cameras in the waiting area for the ferry 14:43:56
20 terminal now and those cameras depicted the 14:43:59
21 person stealing those items and I saw that 14:44:04
22 video. 14:44:06
23 Q. Did George Hesse show you any other 14:44:09
24 videos? 14:44:11
25 A. No, I haven't seen any other videos. 14:44:11
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1 Loeffler
2 Q. Do you have any information at all 14:44:23
3 concerning a video recording that depicts 14:44:24
4 George Hesse in a cell with a detainee? 14:44:27
5 MR. WELCH: Objection. 14:44:30
6 A. I've never seen any. 14:44:31
7 Q. Have you heard anything like that 14:44:33
8 discussed? 14:44:35
9 A. I have not. 14:44:35
10 Q. Okay. Do you know who -- strike 14:44:36
11 that. 14:44:42
12 A. Could you speak up just a little 14:44:42
13 bit. 14:44:44
14 Q. Sure. Do you know a former police 14:44:44
15 officer at Ocean Beach by the name of Dave 14:44:46
16 Gerdon? 14:44:48
17 A. Yes. 14:44:49
18 Q. And when did you first hear the name 14:44:49
19 Dave Gerdon? 14:44:53
20 A. I have known Dave for twenty years. 14:44:54
21 Q. And is he currently a police officer 14:44:56
22 at Ocean Beach? 14:44:58
23 A. No, he is not. 14:44:59
24 Q. Do you know when his employment 14:45:00
25 ended? 14:45:01
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1 Loeffler
2 A. No, I'm not sure. 14:45:02
3 Q. Do you know why it ended? 14:45:03
4 A. I believe he was taking materials 14:45:04
5 from the police station, unauthorized materials 14:45:12
6 from the police station. 14:45:15
7 Q. And what is the basis for that 14:45:16
8 belief? 14:45:18
9 A. I believe it was on video 14:45:18
10 surveillance tape. 14:45:21
11 Q. Did you ever see that video 14:45:22
12 surveillance tape? 14:45:23
13 A. No, I did not. 14:45:23
14 Q. Did anyone report to you that that 14:45:24
15 surveillance tape existed? 14:45:26
16 A. Yes. 14:45:27
17 Q. Who reported that to you? 14:45:28
18 A. George Hesse. 14:45:28
19 Q. Did George Hesse communicate to you 14:45:29
20 what the nature of the materials that 14:45:31
21 Mr. Gerdon had taken without authorization 14:45:33
22 were? 14:45:34
23 A. No, he did not. 14:45:34
24 Q. Did you ask? 14:45:35
25 A. No, I did not. 14:45:35
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1 Loeffler
2 Q. Do you know whether -- strike that. 14:45:37
3 Did you learn about this incident 14:45:38
4 prior to the ending of Mr. Gerdon's employment 14:45:45
5 as a police officer? 14:45:48
6 A. Yes. 14:45:49
7 MR. WELCH: Objection to the form. 14:45:49
8 A. Yes. 14:45:50
9 Q. Did you direct that any action 14:45:51
10 should be undertaken in response to that 14:45:53
11 incident? 14:45:55
12 A. Yes. 14:45:55
13 MR. WELCH: Objection to the form. 14:45:55
14 Q. What action did you direct should be 14:45:57
15 undertaken? 14:45:59
16 A. All the videotapes were turned over 14:46:00
17 to the District Attorney's office for their 14:46:02
18 investigation. 14:46:07
19 Q. Do you know whether that 14:46:08
20 investigation ever reached any conclusions? 14:46:09
21 MR. WELCH: Objection. To your 14:46:11
22 knowledge. 14:46:12
23 A. No, I don't know. 14:46:13
24 Q. Do you know whether any charges were 14:46:14
25 ever brought against Mr. Gerdon? 14:46:15
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1 Loeffler
2 A. I do not. 14:46:17
3 Q. Did anyone ever describe to you the 14:46:18
4 nature of the materials that Mr. Gerdon 14:46:20
5 purportedly had taken from the police office? 14:46:22
6 A. No. 14:46:24
7 Q. Did you ever ask anyone? 14:46:25
8 A. No. 14:46:27
9 Q. Did you ever discuss it with anyone? 14:46:27
10 A. I was instructed not to. 14:46:29
11 Q. And who instructed you not to? 14:46:30
12 A. The District Attorney's office. 14:46:32
13 Q. When did you get that instruction? 14:46:33
14 A. When the District Attorney said that 14:46:35
15 they were going to conduct the investigation. 14:46:36
16 Q. And who specifically in the District 14:46:38
17 Attorney's office? 14:46:40
18 A. It came through our attorney's 14:46:41
19 office from ADA -- what's his name? 14:46:42
20 MR. WELCH: If you don't recall, you 14:46:42
21 don't recall. 14:46:49
22 Q. Could it be ADA Spoda? 14:46:53
23 A. No. It was Bian -- 14:46:56
24 Q. Biancavilla? 14:47:10
25 A. Biancavilla. 14:47:13
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1 Loeffler
2 Q. Earlier today you had indicated that 14:47:21
3 you had communications with members of the news 14:47:23
4 media concerning this lawsuit. Do you recall 14:47:26
5 what I am referring to? 14:47:28
6 MR. WELCH: Objection. 14:47:30
7 You can answer. 14:47:31
8 A. Yes. 14:47:32
9 Q. On how many occasions did you speak 14:47:32
10 with the news media about this lawsuit? 14:47:34
11 A. On one specific day I spoke to 14:47:35
12 two -- I spoke to Newsday and I spoke to the 14:47:44
13 AP. 14:47:47
14 Q. And did you speak to them 14:47:47
15 simultaneously? 14:47:49
16 A. No. 14:47:49
17 Q. Did a reporter from Newsday request 14:47:50
18 to speak to you? 14:47:56
19 A. Yes. 14:47:57
20 Q. And did you have an in-person 14:47:57
21 conversation with the reporter for Newsday? 14:48:01
22 A. Excuse me? 14:48:03
23 Q. Did you have an in-person 14:48:03
24 conversation? 14:48:05
25 A. No. 14:48:05
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1 Loeffler
2 Q. What about the reporter from AP, did 14:48:06
3 that reporter request to speak with you? 14:48:08
4 A. Yes. 14:48:09
5 Q. And did you have an in-person 14:48:10
6 conversation with that reporter? 14:48:12
7 A. No. 14:48:12
8 Q. Do you remember who the reporter was 14:48:13
9 from the AP? 14:48:14
10 A. No. 14:48:15
11 Q. Do you remember who the reporter was 14:48:15
12 from Newsday? 14:48:16
13 A. Sandra Peddie. 14:48:18
14 Q. In substance, do you recall what was 14:48:23
15 communicated between you and Sandra Peddie on 14:48:25
16 that occasion? 14:48:28
17 A. I think the conversation was that we 14:48:30
18 would have no comment on the ongoing litigation 14:48:33
19 and refer them to our attorneys. 14:48:35
20 Q. Did you ever make any comments to 14:48:37
21 any reporter for Newsday to the effect that you 14:48:40
22 vowed to create a kinder and gentler Ocean 14:48:45
23 Beach police force? 14:48:50
24 MR. WELCH: Objection to form. 14:48:51
25 You can answer. 14:48:54
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1 Loeffler
2 A. I had made that announcement at a 14:48:54
3 board meeting that a Newsday reporter was 14:48:56
4 present at, but I didn't make that presentation 14:48:58
5 to the Newsday reporter. 14:49:00
6 Q. Okay. And what was the substance of 14:49:01
7 that announcement? 14:49:03
8 A. It was that the crux of the -- or 14:49:04
9 the demeanor of the Police Department was going 14:49:09
10 to change to more of a service-oriented 14:49:11
11 Police Department as opposed to an 14:49:16
12 enforcement-oriented Police Department. 14:49:19
13 Q. Did you have any conversations with 14:49:20
14 any members of the Village Board of Trustees 14:49:23
15 concerning the subject of that statement prior 14:49:25
16 to your making it at that meeting? 14:49:29
17 A. Yes. 14:49:30
18 Q. And who did you discuss it with? 14:49:31
19 A. With the entire board before I made 14:49:33
20 the comment. 14:49:34
21 Q. And did anyone on the board express 14:49:35
22 any opinions as to the appropriateness of that 14:49:38
23 comment? 14:49:40
24 A. They thought it was appropriate. 14:49:41
25 Q. Did every member of the board 14:49:42
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1 Loeffler
2 express that they thought it was appropriate? 14:49:43
3 A. Yes. 14:49:45
4 Q. Do you recall whether Trustee Einig 14:49:45
5 has at any point during your service as mayor 14:49:47
6 or trustee expressed any views as to the 14:49:50
7 enforcement practices of the Ocean Beach Police 14:49:53
8 Department? 14:49:55
9 MR. WELCH: Object to the form. 14:49:55
10 Do you understand the question? 14:49:57
11 THE WITNESS: No, I don't. 14:49:58
12 Q. Has Trustee Einig ever expressed any 14:49:59
13 views that you are aware of during your service 14:50:01
14 as mayor or trustee concerning the strictness 14:50:04
15 of the enforcement policies of the Ocean Beach 14:50:11
16 Police Department? 14:50:14
17 MR. WELCH: Object to the form. 14:50:14
18 You can answer, if you understand 14:50:16
19 it. 14:50:17
20 A. Yes, he has. 14:50:17
21 Q. And what has he said about that 14:50:18
22 subject? 14:50:20
23 A. Trustee Einig believes that we 14:50:20
24 should take a stronger position with reference 14:50:23
25 to enforcement than we do at the present time. 14:50:26
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1 Loeffler
2 Q. And has he expressed that view in 14:50:28
3 meetings at the Board of Trustees? 14:50:30
4 A. Yes, he has. 14:50:31
5 Q. Have other members of the Board of 14:50:32
6 Trustees indicated that they share that view? 14:50:34
7 MR. WELCH: To the extent that these 14:50:36
8 conversations were had in executive session 14:50:38
9 and were -- and counsel was present and 14:50:41
10 counsel was present for the purposes of 14:50:43
11 providing legal advice and legal advice was 14:50:47
12 sought during those conversations, then I 14:50:49
13 would direct you not to answer those 14:50:50
14 questions, but if they weren't, then you 14:50:52
15 can answer. 14:50:54
16 A. He has made it known at public 14:50:55
17 meetings. 14:50:58
18 Q. Have any other members of the Board 14:51:00
19 of Trustees indicated at those meetings that 14:51:02
20 they shared his view? 14:51:04
21 A. No. 14:51:06
22 Q. Do you recall having any discussions 14:51:08
23 individually with Trustee Einig about his view 14:51:15
24 on the subject? 14:51:18
25 A. Yes. 14:51:19
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1 Loeffler
2 Q. And do you recall in substance what 14:51:19
3 you discussed with Trustee Einig? 14:51:23
4 A. No, not really. 14:51:25
5 Q. Did you share Trustee Einig's view 14:51:27
6 on the subject? 14:51:30
7 MR. WELCH: I am going to object. 14:51:31
8 There is no foundation, and also it's a 14:51:35
9 totally irrelevant line of questioning, but 14:51:38
10 to the extent that you can answer that 14:51:40
11 question, feel free. 14:51:42
12 A. I don't share his feelings. 14:51:44
13 Q. Did you explain ever to Trustee 14:51:46
14 Einig why you did not share his view on that 14:51:49
15 subject? 14:51:52
16 A. Yes. 14:51:52
17 Q. And what did you express? 14:51:52
18 A. That I don't share his feelings. 14:51:54
19 Q. Did you give any reasons why? 14:51:55
20 A. No. 14:51:57
21 Q. Does Trustee Einig still a member of 14:51:58
22 the Board of Trustees at the time that you made 14:52:04
23 the statement that was reported by Newsday at 14:52:06
24 the board meeting concerning a kinder and 14:52:09
25 gentler police force? 14:52:11
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1 Loeffler
2 MR. WELCH: I am going to object to 14:52:12
3 the form. There has been absolutely no 14:52:14
4 evidence or foundation laid as to when this 14:52:15
5 time frame was, whether he was the mayor or 14:52:16
6 as the trustee. Can you just establish 14:52:19
7 when the time frame was of this? 14:52:25
8 MR. GRAFF: Sure. 14:52:27
9 Q. When did you make that statement 14:52:27
10 that was reported in Newsday? 14:52:28
11 A. I don't remember. 14:52:29
12 Q. What position did you hold at Ocean 14:52:30
13 Beach at the time? 14:52:32
14 A. I was the mayor. 14:52:32
15 MR. WELCH: So this was after then 14:52:34
16 you became mayor? 14:52:36
17 THE WITNESS: Yes, after. 14:52:36
18 MR. WELCH: After '07. 14:52:37
19 THE WITNESS: '06. 14:52:39
20 Q. Was Trustee Einig then a member of 14:52:42
21 the Board of Trustees? 14:52:44
22 A. Yes, he was. 14:52:45
23 Q. Did he express support for the 14:52:46
24 statement that you made about the kinder and 14:52:53
25 gentler police force? 14:52:55
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1 **Loeffler**
2 MR. WELCH: Objection. Asked and 14:52:57
3 answered. 14:52:57
4 You can answer it again. 14:52:57
5 A. For that statement he did. He may 14:52:59
6 not have totally agreed with my position, but 14:53:02
7 he believed that -- he did support me in that 14:53:05
8 statement. 14:53:08
9 **Q. Was George Hesse present at that 14:53:09**
10 **meeting? 14:53:11**
11 A. I don't believe so. 14:53:11
12 **Q. Do you recall whether there was a 14:53:14**
13 **point in time during your service as trustee 14:53:19**
14 **when George Hesse was transferred either to or 14:53:23**
15 **from the day shift to the night shift? 14:53:32**
16 A. No, I don't remember that. 14:53:35
17 **Q. On the occasion when you advised 14:53:37**
18 **Frank Fiorillo not to arrest or serve a 14:53:47**
19 **citation to Mike Loeffler, did you know how 14:53:50**
20 **Frank Fiorillo -- strike that. 14:53:58**
21 **Do you know if there was a report to 14:54:07**
22 **the Police Department that the barbecue in 14:54:08**
23 **question had been stolen? 14:54:10**
24 A. I don't know. 14:54:11
25 **Q. Did you ever have any conversation 14:54:12**
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1 **Loeffler**
2 **with Frank Fiorillo, whether or not others were 14:54:19**
3 **present, did you ever speak with Frank Fiorillo 14:54:22**
4 **about Richard Bosetti? 14:54:25**
5 MR. WELCH: Objection. Asked and 14:54:26
6 answered. 14:54:27
7 You can answer it again. 14:54:27
8 A. No. 14:54:28
9 **Q. Did you ever speak with Frank 14:54:29**
10 **Fiorillo about Gary Bosetti? 14:54:30**
11 A. No. 14:54:31
12 **Q. Did you ever speak with any of the 14:54:32**
13 **plaintiffs in this lawsuit about either of 14:54:34**
14 **those individuals? 14:54:36**
15 A. No. 14:54:36
16 **Q. Other than your service as mayor and 14:54:37**
17 **police commissioner, have you ever served in 14:54:55**
18 **any other capacity in Ocean Beach, whether as a 14:54:57**
19 **volunteer or for pay? 14:55:00**
20 A. No. 14:55:01
21 **Q. Do you ever drive an Ocean Beach 14:55:02**
22 **rescue vehicle? 14:55:06**
23 A. Absolutely. You just said for pay, 14:55:07
24 didn't you? 14:55:10
25 **Q. Whether or not for pay. 14:55:10**
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1 **Loeffler**
2 A. I didn't hear you say "whether or 14:55:11
3 not." I'm sorry. Yes, I'm a member of the 14:55:13
4 Fire Department. 14:55:14
5 MR. WELCH: Is that a volunteer 14:55:15
6 position? 14:55:17
7 THE WITNESS: It's a volunteer 14:55:18
8 position. 14:55:19
9 **Q. Do you recall ever responding in the 14:55:19**
10 **Ocean Beach rescue vehicle to an incident 14:55:24**
11 **involving domestic violence wherein the male 14:55:27**
12 **and the female and a small baby were in the 14:55:33**
13 **Ocean Beach police station together? 14:55:36**
14 MR. WELCH: Object to the form. 14:55:38
15 Compound. 14:55:39
16 You can answer. 14:55:39
17 A. No, I don't recall. 14:55:40
18 MR. GRAFF: I'd like to ask the 14:55:53
19 court reporter to please mark as 14:55:55
20 Exhibit Loeffler 13 a one-page document 14:55:59
21 produced to us by Ocean Beach bearing Bates 14:56:01
22 number 5419. 14:56:03
23 (Loeffler Exhibit 13, letter dated 14:56:21
24 April 6, 2007, Bates stamped 005419, marked 14:56:21
25 for identification.) 14:56:39
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1 **Loeffler**
2 **Q. After your counsel is finished 14:56:39**
3 **comparing your version and his version of the 14:56:41**
4 **document, if you could please take a look at 14:56:43**
5 **the document and tell me if this is something 14:56:45**
6 **you have seen before. 14:56:47**
7 MR. WELCH: Have you seen this 14:56:48
8 before, yes or no? 14:56:49
9 (Document review.) 14:56:54
10 A. Yes, I have. 14:57:04
11 **Q. And when did you first see the 14:57:07**
12 **document? 14:57:10**
13 A. I guess in April of '07. 14:57:11
14 **Q. The document is dated April 6, 2007? 14:57:18**
15 A. Yes. 14:57:21
16 **Q. The document states: "Dear Officer 14:57:22**
17 **Hardman, due to the impending litigation and 14:57:30**
18 **under advice of counsel, the Village cannot 14:57:32**
19 **rehire you for the 2007 summer season." 14:57:34**
20 **Do you know what the impending 14:57:36**
21 **litigation referenced in this document is? 14:57:39**
22 A. I wouldn't -- I don't know. I don't 14:57:41
23 want to guess at it. 14:57:50
24 **Q. And would you be guessing between 14:57:52**
25 **multiple possibilities that you believe it 14:57:56**
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1 Loeffler
2 could be, or is there only one that you think 14:57:57
3 it could? 14:57:59
4 MR. WELCH: Well, he said he is 14:58:00
5 going to be guessing. He is not going to 14:58:01
6 guess at any possibility, so... 14:58:03
7 A. I'm not gonna guess. I don't know. 14:58:05
8 Q. Okay. I will continue reading. "All 14:58:06
9 department equipment must be secured and turned 14:58:07
10 in by April 20th, 2006. All contact must be 14:58:10
11 through officer Paul Trosko. He will give you 14:58:12
12 a detailed receipt for all equipment. I 14:58:15
13 apologize for any inconvenience this has caused 14:58:17
14 and if there is anything I can do, please call. 14:58:18
15 Keep the faith, respectfully, George B. Hesse." 14:58:20
16 CC Joseph Loeffler, Mayor/Police Commissioner, 14:58:24
17 Mary Anne Minerva, Kenneth Gray, Village 14:58:25
18 Attorney. 14:58:27
19 Did you have any conversations with 14:58:28
20 George Hesse concerning what's set forth in 14:58:31
21 this document? 14:58:33
22 A. Yes, I did, but those conversations 14:58:34
23 were during executive session with the presence 14:58:39
24 of counsel that we used to advise us on the 14:58:42
25 issue. 14:58:45
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1 Loeffler
2 2007? 14:59:45
3 A. Yes, it is. 14:59:45
4 Q. And April 6, 2007 is obviously 14:59:46
5 subsequent to March 26, 2007; correct? 14:59:49
6 A. Yes, it is. 14:59:51
7 Q. Does George Hesse having written 14:59:52
8 this letter concerning Officer Hardman's 14:59:56
9 employment under the heading George B. Hesse, 14:59:58
10 Chief of Police, does that in any way violate 15:00:01
11 the terms of Loeffler 8, as you understand 15:00:03
12 them? 15:00:06
13 MR. WELCH: Objection to the extent 15:00:07
14 that it calls for a legal conclusion, and 15:00:09
15 also there is no foundation whatsoever and 15:00:12
16 that this witness didn't actually draft 15:00:15
17 this document and -- but to that extent you 15:00:18
18 can answer the question. 15:00:22
19 A. I believe the document was drafted 15:00:25
20 by George at the direction of counsel and the 15:00:27
21 board. 15:00:31
22 Q. Do you recall whether George Hesse 15:00:31
23 obtained board approval before sending this 15:00:34
24 document? 15:00:36
25 A. It was done at the direction of the 15:00:37
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1 Loeffler
2 Q. Then I won't ask you to testify to 14:58:46
3 those matters. 14:58:49
4 If you look up to the top right-hand 14:58:49
5 corner of the document in the header it says 14:58:51
6 George B. Hesse, Chief of Police. 14:58:54
7 Was George Hesse ever the chief of 14:58:55
8 police in Ocean Beach? 14:58:57
9 A. No, he was not. 14:58:57
10 Q. What was George Hesse's position in 14:59:02
11 the Ocean Beach Police Department on April 6, 14:59:04
12 2007? 14:59:06
13 A. I don't know if that was after that 14:59:06
14 letter I wrote or not. 14:59:06
15 THE COURT REPORTER: I can't hear 14:59:06
16 you. 14:59:06
17 THE WITNESS: Oh, I'm sorry. 14:59:06
18 A. I don't know if that was after the 14:59:27
19 order that I gave to him removing him from duty 14:59:29
20 or not. 14:59:32
21 Q. Are you referring to Loeffler 8? 14:59:33
22 Maybe if I could put that in front of you to -- 14:59:35
23 is that the order you are referring to? 14:59:41
24 A. Yes. 14:59:43
25 Q. And that order is dated March 26, 14:59:43
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1 Loeffler
2 board, so I would assume that meant it must be 15:00:38
3 approved. 15:00:41
4 Q. Have any of the things that we have 15:00:54
5 been discussing in the last several minutes 15:00:56
6 refreshed your recollection as to the nature of 15:00:58
7 the impending litigation that's referenced in 15:01:00
8 Loeffler 13? 15:01:01
9 MR. WELCH: Objection to the form. 15:01:02
10 And I don't know what you are referring to, 15:01:09
11 but if the witness was referring to, as far 15:01:10
12 as the last several minutes of your 15:01:12
13 conversation, you can answer the question. 15:01:14
14 If you don't, then you can ask him to 15:01:16
15 rephrase it. 15:01:18
16 Is your recollection refreshed by 15:01:22
17 your prior conversation this past few 15:01:24
18 minutes? 15:01:24
19 Q. You know what, to avoid any 15:01:25
20 ambiguity, do you, as you sit here now, recall 15:01:27
21 what the nature of the impending litigation 15:01:30
22 referenced in Loeffler 13 is? 15:01:33
23 A. It was the -- 15:01:35
24 MR. WELCH: Objection. Asked and 15:01:36
25 answered. 15:01:37
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1 Loeffler
2 You can answer it. 15:01:37
3 A. Probably -- I don't want "probably." 15:01:38
4 It was the arrest of certain police officers 15:01:47
5 within the Police Department. 15:01:50
6 **Q. Which police officers?** 15:01:52
7 A. Hardman and Hesse. 15:01:53
8 **Q. Were any other officers arrested as** 15:01:56
9 **part of that impending litigation?** 15:01:59
10 A. Emburey and Carollo. 15:02:00
11 MR. GRAFF: I am going to ask the 15:02:14
12 court reporter to please mark as 15:02:15
13 Exhibit Loeffler 14 a one-page document 15:02:17
14 produced by Ocean Beach bearing Bates 15:02:19
15 number 4431. 15:02:21
16 (Loeffler Exhibit 14, letter dated 15:02:50
17 August 6, 2007, Bates stamped 004431, 15:02:50
18 marked for identification.) 15:02:59
19 **Q. Mayor Loeffler, when your counsel is** 15:02:59
20 **finished reviewing the document, if you could** 15:03:01
21 **please review the document yourself and let me** 15:03:02
22 **know if this is a document you have seen** 15:03:04
23 **before?** 15:03:06
24 MR. WELCH: Have you seen this 15:03:06
25 before? 15:03:07
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1 Loeffler
2 (Document review.) 15:03:08
3 A. Yes, sir. 15:03:08
4 **Q. Is this a letter that you wrote?** 15:03:22
5 A. Yes, it is. 15:03:24
6 **Q. Why did you write this letter?** 15:03:25
7 MR. WELCH: To the extent that it 15:03:27
8 may call for privilege with counsel, 15:03:28
9 attorney/client privilege. If it doesn't, 15:03:32
10 you can answer. If it does, to the extent 15:03:35
11 that you drafted this as a result of 15:03:37
12 conversations with counsel, then I direct 15:03:38
13 you not to answer the question. 15:03:40
14 A. This was done under advice of 15:03:41
15 counsel. This letter was written under the 15:03:43
16 advice of counsel. 15:03:47
17 **Q. Was Paul Carollo arrested, to your** 15:03:48
18 **knowledge, at the same time as Officer Hardman?** 15:03:52
19 A. Yes. 15:03:54
20 **Q. And, to your knowledge, was Paul** 15:03:56
21 **Carollo rehired in the 2007 season?** 15:04:00
22 A. I don't know. 15:04:04
23 **Q. When you write: "Dear Officer** 15:04:08
24 **Carollo, Civil Service rules and regulations** 15:04:10
25 **require you to work at least one tour during** 15:04:13
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1 Loeffler
2 **the calendar year," what is the source of your** 15:04:15
3 **knowledge about those civil service rules and** 15:04:18
4 **regulations?** 15:04:20
5 MR. WELCH: To the extent you did 15:04:21
6 not learn it -- to the extent you learned 15:04:22
7 that outside of conversations with counsel, 15:04:23
8 you can answer. 15:04:24
9 Do you have an independent -- 15:04:26
10 A. I would think it came from counsel. 15:04:28
11 I would believe it came from counsel. I'm not 15:04:32
12 versed on Civil Service law. 15:04:33
13 **Q. When you wrote: "You may work one** 15:04:35
14 **tour for the Village under modified duty** 15:04:40
15 **assignment to fulfill the requirement and** 15:04:42
16 **maintain your status," what status were you** 15:04:44
17 **referring to?** 15:04:46
18 A. Police officer. 15:04:47
19 **Q. And when you refer to modified duty** 15:04:48
20 **assignment, what was the nature of the modified** 15:04:50
21 **duty assignment?** 15:04:53
22 A. It would be without your weapon, it 15:04:54
23 would be of a clerical nature, no weapon, no 15:04:57
24 badge, civilian clothes. The same restrictions 15:05:01
25 that were put onto Patrolman Hesse. 15:05:04
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1 Loeffler
2 THE COURT REPORTER: "Put onto" -- 15:05:04
3 THE WITNESS: Police Officer Hesse. 15:05:09
4 **Q. When you wrote: "Hopefully you will** 15:05:09
5 **take advantage of this opportunity. Upon the** 15:05:11
6 **successful completion of court actions, we** 15:05:13
7 **would like to reinstate you to your previous** 15:05:14
8 **assignment," what were the court actions that** 15:05:16
9 **you are referring to?** 15:05:18
10 A. The arrest. 15:05:19
11 **Q. Do you know what charges, if any,** 15:05:25
12 **were brought against Paul Carollo?** 15:05:27
13 A. Paul Carollo was arrested, but I 15:05:30
14 don't know what the charges were. 15:05:32
15 **Q. Do you know -- strike that.** 15:05:33
16 **Do you know why this letter to Paul** 15:05:50
17 **Carollo was from you rather than from George** 15:05:52
18 **Hesse?** 15:05:54
19 MR. WELCH: Objection. To the 15:05:55
20 extent it calls for conversations you may 15:05:55
21 have had with counsel or at the direction 15:05:57
22 of counsel or on advice of counsel, I 15:05:59
23 direct you not to answer, but to the extent 15:06:01
24 that it is outside of that, those caveats, 15:06:03
25 you can answer. 15:06:05
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1 Loeffler
2 A. I would -- obviously I was directed 15:06:07
3 by counsel to do this and that's what I did. 15:06:09
4 **Q. Do you know whether Officer Carollo 15:06:14**
5 **worked one tour under modified duty assignment 15:06:17**
6 **subsequent to your drafting of this letter? 15:06:20**
7 A. I don't know that. 15:06:22
8 **Q. Did you ever have any conversations 15:06:24**
9 **with Paul Carollo about this letter? 15:06:25**
10 A. No, sir. 15:06:27
11 **Q. Did you have any conversations with 15:06:27**
12 **Paul Carollo subsequent to August 6, 2007? 15:06:29**
13 A. No. 15:06:32
14 **Q. None at all? 15:06:32**
15 A. None at all. 15:06:33
16 **Q. What about Officer Hardman, did you 15:06:38**
17 **have any conversations with him subsequent to 15:06:40**
18 **April 6, 2007? 15:06:42**
19 A. No. 15:06:43
20 **Q. Did you have any conversations with 15:06:44**
21 **George Hesse about his arrest? 15:06:59**
22 A. Yes. 15:07:00
23 **Q. How many times have you spoken with 15:07:06**
24 **George Hesse about his arrest? 15:07:08**
25 A. I don't know. 15:07:12
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1 Loeffler
2 **Q. Can you recall anything that was 15:07:17**
3 **discussed between the two of you about his 15:07:20**
4 **arrest? 15:07:21**
5 MR. WELCH: Just the arrest? Is 15:07:23
6 that all you are asking about? 15:07:24
7 MR. GRAFF: The arrest and any 15:07:26
8 charges that were brought against him. 15:07:28
9 A. The charges were false and he was 15:07:29
10 going to be exonerated. That's what he 15:07:31
11 believed. 15:07:31
12 THE COURT REPORTER: I'm sorry? 15:07:31
13 A. That the charges were false and he 15:07:34
14 would be fully exonerated. That was his 15:07:35
15 belief. That's what he expressed to me. 15:07:38
16 **Q. Did he communicate to you what those 15:07:40**
17 **charges were? 15:07:43**
18 A. No. 15:07:43
19 **Q. Do you have any understanding of 15:07:43**
20 **what those charges are, as you sit here today? 15:07:45**
21 MR. WELCH: Objection. 15:07:49
22 You can answer. 15:07:50
23 A. He was charged with an assault. 15:07:50
24 **Q. Did you have any conversations with 15:07:52**
25 **George Hesse concerning the incident that was 15:07:55**
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1 Loeffler
2 **charged as an assault? 15:07:57**
3 A. No. 15:07:58
4 MR. WELCH: Objection. 15:07:59
5 A. No, I did not. 15:08:00
6 **Q. Did you ever learn from anyone other 15:08:07**
7 **than your counsel any information about the 15:08:09**
8 **events that were charged as an assault? 15:08:13**
9 A. I don't understand the question. 15:08:15
10 **Q. Well, presumably something happened 15:08:18**
11 **and on the basis of that George Hesse was 15:08:23**
12 **charged with an assault. I'm asking now if you 15:08:25**
13 **are aware of what it was that happened that led 15:08:28**
14 **him to be charged with an assault. 15:08:30**
15 MR. WELCH: Objection. Form. 15:08:32
16 Foundation. Why don't you just ask him if 15:08:34
17 he is aware of whatever incident was the 15:08:35
18 underlying result of the indictment of 15:08:37
19 George Hesse. Just ask him. 15:08:39
20 **Q. Are you aware? 15:08:41**
21 A. Yes. 15:08:41
22 **Q. What is the underlying incident? 15:08:42**
23 A. There is an allegation that there 15:08:43
24 was an assault that took place within the 15:08:45
25 police station and George Hesse was the 15:08:47
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1 Loeffler
2 perpetrator of that assault. 15:08:50
3 **Q. Did you ever discuss the purported 15:08:51**
4 **assault with George Hesse? 15:08:53**
5 A. No, I have not. 15:08:55
6 **Q. Did you ever discuss it with any 15:08:56**
7 **officers at the Ocean Beach Police Department? 15:08:57**
8 A. No, I have not. 15:08:57
9 **Q. Did you ever discuss it with any 15:08:58**
10 **employee of Ocean Beach? 15:09:00**
11 A. No, I have not. 15:09:01
12 **Q. Is that incident the first incident 15:09:13**
13 **that you are aware of wherein George Hesse has 15:09:14**
14 **been accused of assaulting a civilian in the 15:09:17**
15 **course of his duties as an employee of the 15:09:22**
16 **Ocean Beach Police Department? 15:09:24**
17 MR. WELCH: Objection to the form. 15:09:25
18 You can answer. 15:09:26
19 A. No, it's not. 15:09:30
20 **Q. How many prior incidents are you 15:09:31**
21 **aware of? 15:09:33**
22 A. One. 15:09:33
23 **Q. And what incident are you referring 15:09:34**
24 **to? 15:09:36**
25 A. Prisco V Ocean Beach, there is a 15:09:36
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1 Loeffler
2 pending lawsuit. 15:09:40
3 **Q. Did you ever have any discussions 15:09:41**
4 **with George Hesse about that lawsuit? 15:09:43**
5 A. Nope. 15:09:44
6 **Q. Do you know what's alleged in that 15:09:44**
7 **lawsuit? 15:09:47**
8 A. I am trying to think if I read the 15:09:47
9 allegations. No, I don't think I ever read 15:09:54
10 that one. 15:09:58
11 **Q. When George Hesse expressed to you 15:09:58**
12 **that the charges in the more recent lawsuit 15:10:02**
13 **were without merit and he would be exonerated, 15:10:05**
14 **do you believe that they are without merit and 15:10:12**
15 **will be -- and he will be exonerated? 15:10:14**
16 MR. WELCH: Objection. 15:10:17
17 MR. CONNOLLY: Objection. 15:10:18
18 MR. WELCH: Why don't you ask him if 15:10:18
19 he has any personal knowledge of the 15:10:19
20 incident. That would be an appropriate 15:10:22
21 question. Otherwise it's an entirely 15:10:23
22 irrelevant line of inquiry as to what he 15:10:24
23 believes as far as the legitimacy or merit 15:10:26
24 to the allegations as against Mr. Hesse. 15:10:27
25 MR. GRAFF: Let me ask a different 15:10:29
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1 Loeffler
2 question. 15:10:30
3 MR. WELCH: Is that question 15:10:31
4 withdrawn? Are you withdrawing that 15:10:32
5 question? 15:10:32
6 MR. GRAFF: I am asking a different 15:10:32
7 question than that question. 15:10:33
8 MR. WELCH: So then withdrawn. You 15:10:34
9 can answer his next question. 15:10:36
10 MR. GRAFF: Presumably you will want 15:10:37
11 to wait to hear it, but... 15:10:38
12 MR. WELCH: We are all waiting. 15:10:41
13 **Q. Did you ever make any statements to 15:10:43**
14 **anyone else to the effect that the charges 15:10:49**
15 **against George Hesse were without merit and 15:10:51**
16 **that he would be exonerated? 15:10:53**
17 MR. WELCH: Objection. 15:10:55
18 You can answer. 15:10:56
19 A. Yeah, I did. 15:10:58
20 **Q. And who did you make such 15:11:00**
21 **statements -- 15:11:00**
22 A. Everybody I know. 15:11:01
23 **Q. Did you ever make such statements to 15:11:03**
24 **the press? 15:11:05**
25 A. I don't recall. 15:11:05
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1 Loeffler
2 **Q. When you made those statements, did 15:11:09**
3 **you believe them to be true? 15:11:11**
4 A. Yes, I did. 15:11:12
5 **Q. As you sit here today, do you 15:11:13**
6 **believe them to be true? 15:11:15**
7 A. Yes, I do. 15:11:16
8 MR. WELCH: Objection. 15:11:17
9 You can answer. 15:11:17
10 **Q. Mayor Loeffler, just to go back very 15:11:36**
11 **quickly to something that we had touched on 15:11:38**
12 **earlier, did you ever accidentally shoot your 15:11:40**
13 **brother, Alan Loeffler? 15:11:43**
14 MR. WELCH: Objection. 15:11:44
15 You can answer. 15:11:45
16 A. Yes. 15:11:45
17 **Q. So when I asked you earlier today if 15:11:46**
18 **you had ever shot anyone inadvertently, why 15:11:51**
19 **didn't you tell me that you had accidentally 15:11:54**
20 **shot your brother, Alan Loeffler? 15:11:56**
21 A. I was five years old. I forgot 15:11:58
22 about that. 15:12:00
23 **Q. You were five years old at the time 15:12:01**
24 **of that shooting? 15:12:03**
25 A. Uh-huh. 15:12:03
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1 Loeffler
2 MR. WELCH: Is that a yes? 15:12:04
3 A. Yes, I was five years old. Six. He 15:12:05
4 was five. 15:12:07
5 **Q. Do you know whether your brother, 15:12:08**
6 **Alan Loeffler, sustained any permanent 15:12:09**
7 **injuries from -- 15:12:14**
8 MR. WELCH: Objection. Ari, what is 15:12:14
9 the relevance of this line of inquiry? 15:12:15
10 This is palpably improper and now you are 15:12:17
11 harassing Mr. Loeffler. 15:12:20
12 MR. GRAFF: This is really my last 15:12:20
13 question on that -- 15:12:22
14 MR. WELCH: That's your only 15:12:22
15 question, because I am not going to allow 15:12:23
16 him to answer that question. 15:12:25
17 MR. GRAFF: You are instructing him 15:12:25
18 not to -- 15:12:25
19 MR. WELCH: I am instructing him not 15:12:25
20 to answer that question. You can call the 15:12:26
21 court right now if you want to ask him when 15:12:28
22 he may have shot his brother accidentally 15:12:29
23 when his brother was five years old, when 15:12:30
24 he was five years old, which was what, how 15:12:32
25 many years, fifty years ago approximately? 15:12:32
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1 Loeffler
2 THE WITNESS: Fifty-five years ago. 15:12:36
3 MR. WELCH: Fifty-five years ago. 15:12:36
4 MR. GRAFF: I can ask a more 15:12:37
5 specific question. 15:12:38
6 **Q. Do you know whether as a result of 15:12:39**
7 **being shot on that occasion there was any 15:12:40**
8 **impact on Alan Loeffler's ability to serve as a 15:12:42**
9 **police officer as an adult? 15:12:46**
10 A. No. 15:12:49
11 MR. WELCH: Objection to form. 15:12:49
12 A. No. 15:12:50
13 **Q. Are you aware that the Complaint in 15:12:58**
14 **this lawsuit includes certain allegations about 15:12:59**
15 **an incident that occurred at Houser's Bar on 15:13:02**
16 **Halloween 2004? 15:13:04**
17 A. Yes. 15:13:06
18 MR. WELCH: Objection. 15:13:07
19 You can answer. 15:13:08
20 **Q. If I refer to the Halloween 15:13:09**
21 **incident, will you understand what I am 15:13:11**
22 **referring to? 15:13:12**
23 A. Yes. 15:13:13
24 **Q. When did you first learn any 15:13:14**
25 **information about any events involved in the 15:13:19**
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1 Loeffler
2 **Halloween incident? 15:13:22**
3 A. The night of the incident. 15:13:23
4 **Q. And how did you come to learn of the 15:13:28**
5 **incident on that night? 15:13:30**
6 A. I was driving the Ocean Beach 15:13:31
7 volunteer Fire Department ambulance. We were 15:13:34
8 toned out by Yaphank fire central to respond to 15:13:37
9 the Ocean Beach police station referencing an 15:13:42
10 assault. So I responded to the firehouse, I'm 15:13:49
11 a chauffeur for the ambulance, and I drove the 15:13:54
12 ambulance to the police station. 15:13:57
13 **Q. Did you get out of the ambulance? 15:13:58**
14 A. Yes. 15:14:00
15 **Q. Did you go into the police station? 15:14:00**
16 A. Yes. 15:14:02
17 **Q. Could you describe as much as you 15:14:02**
18 **remember of what happened from the time you 15:14:04**
19 **entered the police station until you exited it. 15:14:06**
20 A. I carried in -- I parked the vehicle 15:14:10
21 in front of the police station. The paramedics 15:14:14
22 got out of the vehicle. I carried in the jump 15:14:18
23 bag or the paramedic bag. I was greeted at the 15:14:21
24 entrance to the squad room by Kevin Lamm. 15:14:25
25 Kevin Lamm said to me "we've got a guy here hit 15:14:29
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1 Loeffler
2 in the head with a pool cue." I said to Kevin, 15:14:35
3 Officer Lamm, "sounds like you might have an 15:14:39
4 assault 2, you should call a third squad." I 15:14:42
5 put the bag done and I went outside. 15:14:46
6 **Q. Do you recall where you were 15:14:49**
7 **standing when you made the comment to Officer 15:14:50**
8 **Lamm about assault 2? 15:14:52**
9 A. Right in the doorway. 15:14:53
10 **Q. Were you leaning on the doorway? 15:14:55**
11 A. No. He was. 15:14:57
12 **Q. And what happened when you left the 15:15:03**
13 **police station? 15:15:07**
14 A. I went out in the ambulance and sat 15:15:07
15 in the ambulance. 15:15:09
16 **Q. And at a certain point did you do 15:15:10**
17 **something else? 15:15:13**
18 MR. WELCH: Objection to the form. 15:15:14
19 You can answer. 15:15:16
20 A. I wait -- I waited for the 15:15:16
21 paramedics to complete their assignment and 15:15:19
22 the -- they placed the subject on a police boat 15:15:27
23 for transportation to the mainland and we 15:15:29
24 packed up the rig and went home. 15:15:32
25 **Q. Other than the brief communication 15:15:34**
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1 Loeffler
2 **with Officer Lamm that you have already 15:15:37**
3 **testified to, did you speak with anybody else 15:15:39**
4 **that night? 15:15:41**
5 A. No. 15:15:41
6 **Q. The next day did you speak to 15:15:42**
7 **anybody else -- to anybody at all about the 15:15:48**
8 **events of the night before? 15:15:51**
9 A. No. 15:15:52
10 **Q. When was the first time, if at all, 15:15:52**
11 **that you spoke to anybody about the events of 15:15:56**
12 **that night? 15:15:57**
13 A. Maybe Monday or Tuesday. 15:15:58
14 **Q. What day of the week was the 15:16:03**
15 **Halloween incident? 15:16:04**
16 A. I believe it was a Saturday. 15:16:05
17 **Q. And who is the first person who you 15:16:08**
18 **spoke to about that incident? 15:16:10**
19 A. Mary Anne Minerva. 15:16:11
20 **Q. What did you say to Mary Anne 15:16:12**
21 **Minerva? 15:16:14**
22 A. She told me that there was an 15:16:14
23 incident that took place at the Halloween -- at 15:16:16
24 Houser's Hotel and it involved the Bosetti 15:16:19
25 brothers. 15:16:22
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1 Loeffler
2 Q. On the night of the incident, were 15:16:22
3 you aware that it involved the Bosetti 15:16:24
4 brothers? 15:16:27
5 A. No. 15:16:27
6 Q. Did you have any information on the 15:16:27
7 night of the incident as to who was involved? 15:16:30
8 A. No. 15:16:33
9 Q. Were you then serving as a member of 15:16:33
10 the Village Board of Trustees? 15:16:39
11 A. Yes. 15:16:40
12 Q. And the mayor at that time was Mayor 15:16:41
13 Rogers? 15:16:47
14 A. Yes. 15:16:47
15 Q. Did you ever have any conversations 15:16:48
16 with Mayor Rogers about the Halloween incident? 15:16:49
17 A. Not that I recall. 15:16:52
18 Q. After your conversation with 15:16:58
19 Mary Anne Minerva, do you recall who you spoke 15:17:00
20 to next about the Halloween incident? 15:17:02
21 MR. WELCH: If anyone. 15:17:04
22 A. Yes. 15:17:06
23 Q. Who is the next person you spoke to? 15:17:11
24 A. George Hesse. 15:17:13
25 Q. And when did you have that 15:17:16
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1 Loeffler
2 conversation with George Hesse? 15:17:19
3 A. A couple of days later. 15:17:20
4 Q. In substance, what was discussed 15:17:22
5 between you and George Hesse? 15:17:24
6 A. I asked him what was going on and he 15:17:25
7 said that Chief Paradiso had instructed him to 15:17:28
8 conduct an investigation, that the 15:17:33
9 investigation that was done that night was 15:17:34
10 improper, and that Chief Paradiso had 15:17:36
11 instructed him to conduct an investigation to 15:17:38
12 find out exactly what happened, and that's what 15:17:41
13 he was going to do. 15:17:43
14 Q. Did you ask him in what way the 15:17:44
15 investigation conducted on the night of was 15:17:46
16 improper? 15:17:49
17 A. No, I did not. 15:17:49
18 Q. Did you think you understood what he 15:17:50
19 was talking about? 15:17:51
20 MR. WELCH: Objection. 15:17:52
21 You can answer. 15:17:53
22 A. No, I don't know what he was talking 15:17:54
23 about. 15:17:55
24 Q. Were you a detective with the 15:17:55
25 Suffolk County Police Department at that time? 15:17:57
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1 Loeffler
2 A. Yes, I was. 15:17:58
3 Q. Other than what you have already 15:17:59
4 testified to about that conversation with 15:18:08
5 George Hesse, was anything else communicated 15:18:09
6 between the two of you in that conversation? 15:18:11
7 A. No. 15:18:13
8 Q. Who, if anyone, did you speak to 15:18:13
9 about the Halloween incident following that 15:18:16
10 conversation with George Hesse? 15:18:18
11 A. I don't recall who I spoke to, if 15:18:23
12 anybody. 15:18:30
13 Q. Did you ever speak to anybody about 15:18:31
14 the Halloween incident for the purpose of 15:18:35
15 obtaining further information about what 15:18:37
16 happened that night? 15:18:38
17 MR. WELCH: Object to the form. 15:18:39
18 You can answer. 15:18:40
19 A. No. 15:18:42
20 Q. Between the conversation with George 15:18:43
21 Hesse that you testified to and today, have you 15:18:47
22 had any conversations that you can recall with 15:18:52
23 anybody about the Halloween incident other than 15:18:54
24 your counsel? 15:18:56
25 A. Yes. 15:18:57
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1 Loeffler
2 Q. And who can you recall having 15:18:57
3 conversations with about that incident? 15:18:59
4 A. The Suffolk County District 15:19:00
5 Attorney's office. 15:19:02
6 Q. Who specifically? 15:19:02
7 A. ADA Biancavilla. 15:19:03
8 Q. And did you speak with that ADA on 15:19:08
9 more than one occasion? 15:19:12
10 A. No, just once. 15:19:12
11 Q. And did he initiate that 15:19:13
12 communication? 15:19:16
13 A. Yes, he did. 15:19:16
14 Q. Did he call you? 15:19:17
15 A. He called my counsel. 15:19:18
16 Q. And did you ever speak with him 15:19:20
17 directly? 15:19:22
18 A. Yes. 15:19:23
19 Q. Did you understand why he was 15:19:23
20 seeking to speak with you? 15:19:28
21 MR. WELCH: Objection as to what his 15:19:29
22 understanding is, your knowledge of his 15:19:30
23 understanding of why he was speaking to 15:19:32
24 you, but if you know, you can answer. 15:19:34
25 A. The reason for the conference was 15:19:36
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1 Loeffler
2 not that particular incident. 15:19:38
3 **Q. Was that incident discussed in that 15:19:42**
4 **conference? 15:19:44**
5 A. Yes, it was. 15:19:44
6 **Q. And in substance what was 15:19:45**
7 **discussed -- actually, strike that. What 15:19:48**
8 **did -- 15:19:50**
9 MR. JEMAL: I need to take a quick 15:19:52
10 break to speak with Mike. 15:19:54
11 MR. GRAFF: Is this for privilege 15:19:56
12 purposes? 15:19:57
13 MR. JEMAL: It is for privilege 15:19:57
14 purposes. 15:19:59
15 MR. WELCH: It is to discuss 15:19:59
16 privilege. 15:19:59
17 MR. GRAFF: Let's go off the record 15:19:59
18 THE VIDEOGRAPHER: Going off the 15:20:01
19 record. The time is 3:20 p.m. 15:20:02
20 (Recess was taken from 3:20 to 15:20:04
21 3:24.) 15:20:04
22 THE VIDEOGRAPHER: We are back on 15:22:56
23 the record. The time is 3:24 p.m. This 15:23:38
24 is the beginning of the tape labeled 15:23:41
25 number 4. 15:23:43
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1 Loeffler
2 asked me questions about the Gilberd incident 15:24:22
3 and he asked me questions -- general questions 15:24:28
4 about Village government and how it was run. 15:24:34
5 **Q. Do you recall any of the specific 15:24:38**
6 **questions he asked you about how the Village 15:24:41**
7 **government is run? 15:24:43**
8 A. He just asked me, you know, when I 15:24:44
9 became mayor, when I was a trustee, what, in 15:24:46
10 fact, was my role with the Police Department. 15:24:51
11 That was about it. 15:24:54
12 **Q. And in substance what did you say in 15:24:55**
13 **response to those questions about the Village 15:24:57**
14 **government? 15:24:59**
15 MR. WELCH: Why don't we break it 15:24:59
16 down into which parts of the questions he 15:25:01
17 responded to. 15:25:03
18 **Q. About your role in the Police 15:25:04**
19 **Department, what did you say in response to his 15:25:06**
20 **question on that subject? 15:25:08**
21 A. That my role with the Police 15:25:09
22 Department only started when I became mayor in 15:25:10
23 2006. Before that I had no -- limited 15:25:12
24 involvement with the Police Department. 15:25:16
25 **Q. Did ADA Biancavilla ask you 15:25:17**
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1 Loeffler
2 BY MR. GRAFF: 15:23:45
3 **Q. Mayor Loeffler, was the Halloween 15:23:45**
4 **incident discussed in that conference with ADA 15:23:48**
5 **Biancavilla? 15:23:51**
6 A. Yes, it was. 15:23:51
7 **Q. And what do you recall ADA 15:23:52**
8 **Biancavilla saying about the Halloween incident 15:23:54**
9 **in that conversation? 15:23:56**
10 A. He asked me what I knew about it. 15:23:56
11 **Q. And what did you say in response? 15:23:58**
12 A. The same sum and substance that I 15:24:00
13 told you already. 15:24:02
14 **Q. Was anything else about the 15:24:03**
15 **Halloween incident discussed in that 15:24:04**
16 **conversation? 15:24:06**
17 A. No, there was not. 15:24:06
18 **Q. Did he ask you any follow-up 15:24:07**
19 **questions? 15:24:08**
20 A. With reference to -- 15:24:09
21 **Q. The Halloween incident. 15:24:10**
22 A. No. 15:24:12
23 **Q. What else, if anything, was 15:24:13**
24 **discussed in that conference? 15:24:14**
25 A. There were some questions -- he 15:24:17
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1 Loeffler
2 **questions about any other employees of Ocean 15:25:27**
3 **Beach in that conference? 15:25:28**
4 A. No. 15:25:30
5 **Q. And what, if anything, did ADA 15:25:32**
6 **Biancavilla ask you about the Gilberd incident 15:25:39**
7 **in that conference? 15:25:41**
8 A. He asked me what I knew about it. 15:25:43
9 **Q. And what did you say in response to 15:25:47**
10 **that? 15:25:49**
11 A. I said I didn't know very much about 15:25:49
12 it. That there was someone who was hurt in the 15:25:51
13 police station and that George Hesse was 15:25:55
14 arrested for that incident. 15:25:56
15 **Q. And I think the Gilberd incident 15:26:04**
16 **hadn't been identified yet in your testimony. 15:26:06**
17 **Just to be clear, there is the 15:26:08**
18 **Prisco incident that you referred to, the 15:26:10**
19 **Gilberd incident and the Halloween incident, 15:26:12**
20 **three separate incidents? 15:26:14**
21 A. Yes. 15:26:15
22 **Q. What else, if anything, was 15:26:16**
23 **discussed in that conference with ADA 15:26:19**
24 **Biancavilla? 15:26:20**
25 A. That was all. 15:26:21
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1 Loeffler
2 Q. Did you have any further discussions 15:26:22
3 with ADA Biancavilla after that? 15:26:24
4 A. No, I have not. 15:26:26
5 Q. Have you had any further discussions 15:26:27
6 with anyone from the District Attorney's 15:26:29
7 office? 15:26:31
8 A. No, I have not. 15:26:31
9 Q. Prior to that conversation with ADA 15:26:32
10 Biancavilla had you had any conversations with 15:26:33
11 anyone from the District Attorney's office? 15:26:36
12 A. No, I have not. 15:26:38
13 Q. After that conference with ADA 15:26:39
14 Biancavilla, did you have any discussions with 15:26:46
15 anybody else about that conference? 15:26:49
16 A. Yes. 15:26:51
17 Q. Who did you speak with about that 15:26:54
18 conference? 15:26:55
19 MR. WELCH: Aside from counsel. 15:26:56
20 A. My attorneys, counsel. 15:26:57
21 Q. Other than counsel, did you -- 15:26:58
22 A. Oh, no. 15:26:58
23 Q. -- discuss it with anyone else? 15:26:59
24 A. No. 15:27:00
25 Q. After that conversation with ADA 15:27:00
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1 Loeffler
2 Biancavilla, who else, if anyone, did you 15:27:09
3 thereafter speak with about the Halloween 15:27:13
4 incident? 15:27:14
5 MR. WELCH: Objection. Asked and 15:27:14
6 answered. 15:27:14
7 You can answer it again. 15:27:15
8 A. No one. I haven't spoken to anybody 15:27:16
9 about that. 15:27:18
10 Q. Did you ever review any statements 15:27:20
11 that were taken in the course of any 15:27:23
12 investigation into the Halloween incident? 15:27:24
13 A. No, I have not. 15:27:26
14 Q. Did you take any notes during that 15:27:29
15 conference with ADA Biancavilla? 15:27:31
16 A. No, I did not. 15:27:33
17 Q. Other than what you have already 15:27:34
18 testified to today, is there any other 15:27:39
19 information that you can think of that you have 15:27:42
20 concerning the Halloween incident? 15:27:44
21 MR. WELCH: Objection to the form. 15:27:46
22 You can answer to the extent you 15:27:48
23 haven't already. 15:27:51
24 A. What information are you talking 15:27:52
25 about? 15:27:55
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1 Loeffler
2 Q. Did you ever obtain from any other 15:27:55
3 source any further information about the 15:27:58
4 Halloween incident? 15:27:59
5 A. No. 15:28:00
6 Q. How did you first learn about the 15:28:02
7 Gilbert incident? 15:28:04
8 A. I believe it was a newspaper 15:28:05
9 article. 15:28:12
10 Q. Do you recall what that newspaper 15:28:13
11 was? 15:28:15
12 A. It would either be Newsday or the 15:28:15
13 Daily News, because those are the two papers 15:28:20
14 that I read every day. 15:28:22
15 Q. Do you subscribe to those 15:28:23
16 newspapers? 15:28:26
17 A. No. 15:28:26
18 Q. Do you purchase them? 15:28:27
19 A. Yes. 15:28:28
20 Q. Do you read them online ever? 15:28:28
21 A. No. 15:28:30
22 Q. Do you use the Internet personally? 15:28:31
23 A. Yes. 15:28:34
24 Q. Do you have an e-mail address in 15:28:34
25 your capacity as mayor of Ocean Beach? 15:28:35
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1 Loeffler
2 A. Yes, I do. 15:28:37
3 Q. Is that an official e-mail address? 15:28:38
4 A. Yes, it is. 15:28:40
5 Q. What is that address, please? 15:28:40
6 A. J-L-O-E-F-F-L-E-R at Village of 15:28:42
7 Ocean Beach, all one word, dot-org. 15:28:46
8 Q. Did you have an e-mail address at 15:28:50
9 the Village of Ocean Beach during any of the 15:28:52
10 time that you served as trustee at Ocean Beach? 15:28:54
11 A. No. 15:28:56
12 Q. To your knowledge, does anybody else 15:28:57
13 have an e-mail address that ends in Village of 15:29:00
14 Ocean Beach dot-org? 15:29:03
15 A. Yes. 15:29:05
16 Q. Who else? 15:29:06
17 A. There are numerous people in the 15:29:07
18 Village that have that. 15:29:09
19 Q. Do you know when those e-mail 15:29:10
20 addresses were first created or assigned? 15:29:14
21 MR. WELCH: Objection to the form. 15:29:17
22 You can answer. 15:29:20
23 A. No, I don't know exactly when. 15:29:20
24 Q. Do you know whether Ed Paradiso -- 15:29:25
25 do you know approximately when, like if you 15:29:28
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1 Loeffler
2 could approximate by year? 15:29:31
3 A. It was after we developed our 15:29:33
4 website, so I don't know when that was. 15:29:34
5 Q. Was that during your service as 15:29:37
6 trustee? 15:29:39
7 A. I'm not sure when the website was 15:29:40
8 developed. 15:29:46
9 Q. Do you know whether Ed Paradiso had 15:29:47
10 an official Ocean Beach e-mail address? 15:29:49
11 A. No, I do not. 15:29:51
12 Q. Do you know whether anyone at the 15:29:52
13 Ocean Beach Police Department had at any point 15:29:54
14 an official Ocean Beach e-mail address? 15:29:56
15 A. No, I do not. 15:29:58
16 Q. Do you know whether today anybody at 15:29:59
17 the Ocean Beach Police Department has an 15:30:00
18 official Ocean Beach e-mail address? 15:30:02
19 A. No, I do not. 15:30:03
20 Q. Do you know whether George Hesse 15:30:04
21 ever had an official Ocean Beach e-mail 15:30:06
22 address? 15:30:08
23 MR. WELCH: Objection. Asked and 15:30:08
24 answered. 15:30:09
25 You can answer again. 15:30:09
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1 Loeffler
2 A. No, I don't. 15:30:09
3 Q. Have you ever exchanged e-mail with 15:30:10
4 George Hesse? 15:30:12
5 A. No. 15:30:12
6 Q. Are there any policies that you are 15:30:12
7 aware of governing the use of official Ocean 15:30:22
8 Beach e-mail accounts? 15:30:29
9 A. Yes. 15:30:30
10 Q. And what are the nature of those 15:30:30
11 policies? 15:30:33
12 MR. WELCH: Objection. 15:30:33
13 You can answer. 15:30:34
14 A. There is a written directive that 15:30:34
15 all employees were given with reference to the 15:30:36
16 use of the internet and Village equipment. 15:30:38
17 Q. Do you know whether there is any 15:30:43
18 rule or policy concerning the use of personal 15:30:46
19 e-mail addresses in connection with any 15:30:50
20 official business for Ocean Beach? 15:30:54
21 MR. WELCH: Objection to the form. 15:30:57
22 You can answer. 15:30:58
23 A. I don't have the -- I don't know if 15:30:59
24 you have a copy of the Village's Internet 15:31:01
25 policy. 15:31:04
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1 Loeffler
2 Q. Unless was that in the handbook 15:31:04
3 perhaps? 15:31:06
4 A. No, there is a policy. I'm not 15:31:06
5 familiar -- without reading it to you right 15:31:09
6 here, I couldn't answer that question. I don't 15:31:11
7 know exactly what it says, but there is an 15:31:13
8 Internet policy that's in place in the Village 15:31:15
9 of Ocean Beach. 15:31:18
10 Q. After reading about the Gilberd 15:31:20
11 incident in the newspaper, who, if anyone, did 15:31:22
12 you speak to about that incident? 15:31:26
13 A. George Hesse. 15:31:28
14 Q. Was he the first person you spoke to 15:31:31
15 after reading about it in the newspaper? 15:31:34
16 A. Uh-huh. 15:31:37
17 Q. How long after reading about it -- 15:31:37
18 THE COURT REPORTER: You have to 15:31:37
19 answer verbally. 15:31:37
20 THE WITNESS: Oh, I'm sorry. 15:31:37
21 A. Yes. 15:31:37
22 Q. How long after reading about it did 15:31:37
23 you speak with George Hesse? 15:31:39
24 A. A couple days after I read it, I 15:31:40
25 believe. 15:31:43
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1 Loeffler
2 Q. Why did you wait a couple of days to 15:31:43
3 speak to him? 15:31:46
4 A. I don't believe -- 15:31:46
5 MR. WELCH: Objection. 15:31:46
6 You can answer. 15:31:47
7 A. I don't believe he was working. 15:31:47
8 Q. Have you ever called George Hesse on 15:31:49
9 his cell phone? 15:31:52
10 A. Yes, I have. 15:31:57
11 Q. Have you ever called George Hesse on 15:32:00
12 his home phone? 15:32:02
13 A. No, I have not. 15:32:02
14 Q. What did you say to George Hesse 15:32:04
15 when you first communicated with him about the 15:32:08
16 Gilberd incident? 15:32:11
17 A. I asked him what happened. 15:32:12
18 Q. Did he respond to that question? 15:32:15
19 A. Yes. 15:32:17
20 Q. What did he say? 15:32:17
21 A. He said a guy got hurt in the police 15:32:18
22 station. 15:32:20
23 Q. Did he give any further detail than 15:32:21
24 what you just stated? 15:32:23
25 A. No. 15:32:24
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1 Loeffler
2 **Q. Did you ask him for any further 15:32:24**
3 **information? 15:32:26**
4 A. The only information I did say to 15:32:26
5 him was, you know, that "I think that you 15:32:28
6 should look to see if there is film for that." 15:32:32
7 **Q. And by "film," you mean video 15:32:38**
8 **surveillance footage? 15:32:40**
9 A. Video surveillance footage. 15:32:41
10 **Q. And do you know whether there was 15:32:43**
11 **film from it? 15:32:48**
12 A. There was not. 15:32:49
13 **Q. Was that -- did the Gilberd incident 15:32:49**
14 **take place prior to the upgrade of the 15:32:52**
15 **department's electronic surveillance? 15:32:54**
16 A. Yes. 15:32:56
17 **Q. Do you know who is responsible for 15:32:58**
18 **maintaining video surveillance footage from the 15:33:00**
19 **Ocean Beach Police Department? 15:33:04**
20 MR. WELCH: Objection to the form. 15:33:05
21 You can answer. 15:33:07
22 A. Right now today? 15:33:07
23 **Q. Let's start with today, please, yes. 15:33:09**
24 A. The officer on duty every day checks 15:33:12
25 the cameras to make sure that they are 15:33:14
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1 Loeffler
2 operational and logs that into a log, as he 15:33:16
3 does the phone record. There is a phone 15:33:19
4 recorder also on the -- that's logged in every 15:33:21
5 day to make sure it's operational. There is a 15:33:23
6 logbook for that as well. 15:33:26
7 **Q. When did the phone -- when was 15:33:28**
8 **the -- excuse me. 15:33:28**
9 **When was the phone recorder 15:33:28**
10 **installed? 15:33:32**
11 A. I'm not sure. 15:33:33
12 **Q. Do you know whether there was a 15:33:36**
13 **phone recorder in place during your service as 15:33:39**
14 **trustee? 15:33:42**
15 A. I don't believe there was. 15:33:42
16 **Q. Have you ever heard any phone 15:33:44**
17 **recordings from that phone recorder? 15:33:46**
18 A. No, I have not. 15:33:48
19 **Q. Do you know whether the video 15:33:50**
20 **surveillance footage is saved on those tapes 15:33:55**
21 **that it's recorded on or are they recorded over 15:34:01**
22 **again? 15:34:04**
23 A. It's not on tape. 15:34:04
24 **Q. How -- and what medium are -- 15:34:06**
25 A. Digital. 15:34:08
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1 Loeffler
2 MR. CONNOLLY: Ari, just so we are 15:34:11
3 clear, we are talking about the system as 15:34:11
4 it exists today? 15:34:11
5 THE WITNESS: As exists today. 15:34:11
6 MR. GRAFF: As exists today. 15:34:12
7 **Q. Prior to the upgrade of the system, 15:34:15**
8 **do you know in what medium the surveillance 15:34:18**
9 **footage was stored? 15:34:20**
10 A. VHS tapes. 15:34:21
11 **Q. And were those VHS tapes kept in a 15:34:23**
12 **library or were they reused? 15:34:26**
13 A. I don't know. 15:34:28
14 **Q. Have you ever seen any video library 15:34:28**
15 **from those -- consisting of those VHS tapes? 15:34:31**
16 A. No, I have not. 15:34:35
17 **Q. Do you know how many hours of video 15:34:38**
18 **footage can be stored on the DVR that's part of 15:34:43**
19 **the current system? 15:34:46**
20 MR. WELCH: Objection to the form. 15:34:47
21 Is it a DVR system or is it something else? 15:34:49
22 A. It's a DVR system. Well, it's a 15:34:52
23 surveillance camera system. 15:34:54
24 **Q. And by DVR, just so it's clear for 15:34:56**
25 **the record, I was referring to digital video 15:34:59**
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1 Loeffler
2 **recording. 15:35:00**
3 A. Uh-huh. 15:35:00
4 THE COURT REPORTER: You have to 15:35:00
5 answer verbally. 15:35:00
6 A. Yes. 15:35:05
7 **Q. Do you recall whether when you read 15:35:06**
8 **about the Gilberd -- 15:35:08**
9 A. Do you want me to answer the 15:35:09
10 question? You asked me a question. I didn't 15:35:10
11 answer it. You asked me how many days it was 15:35:11
12 stored there. 15:35:12
13 **Q. Oh. Do you know how many? 15:35:13**
14 A. Yes, I do. 15:35:14
15 **Q. How many? 15:35:15**
16 A. Ninety days. 15:35:15
17 **Q. Other than checking to make sure 15:35:19**
18 **that the system is working and logging that it 15:35:21**
19 **is, do you know whether anyone actually reviews 15:35:24**
20 **the recordings on a routine basis? 15:35:26**
21 A. No, I don't. 15:35:29
22 **Q. When you read about the Gilberd 15:35:32**
23 **incident for the first time in the newspaper, 15:35:46**
24 **could you describe for us now what you recall 15:35:50**
25 **of the description of that incident? 15:35:54**
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1 **Loeffler**
2 MR. WELCH: You want him to describe 15:35:56
3 now an article that he read about the 15:35:57
4 incident? Do you want him to describe to 15:35:59
5 you an article that essentially involves a 15:36:02
6 hearsay statement from what reporters, 15:36:05
7 whomever is writing about this incident? 15:36:07
8 MR. GRAFF: Yes. 15:36:07
9 MR. WELCH: What he recalls about 15:36:09
10 that? 15:36:10
11 MR. GRAFF: About the information 15:36:10
12 that he read about in that article. 15:36:12
13 MR. WELCH: Okay. From whatever 15:36:13
14 sources they got it from, whatever he 15:36:14
15 recalls from that newspaper? 15:36:16
16 MR. GRAFF: I am asking about what 15:36:17
17 he recalls from what he read in the 15:36:19
18 newspaper. 15:36:20
19 MR. CONNOLLY: Okay, that's fine. 15:36:21
20 Go ahead. You can answer. 15:36:21
21 Can you recall reading from that 15:36:21
22 newspaper article? 15:36:25
23 A. No, I can't -- I don't recall the 15:36:27
24 sum and substance of what I read. It's a 15:36:29
25 couple years ago. 15:36:31
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1 Loeffler
2 **Q. After that conversation with George 15:36:32**
3 **Hesse about the Gilberd incident that you 15:36:41**
4 **referred to -- well, first of all, was anything 15:36:43**
5 **further communicated between the two of you in 15:36:45**
6 **that conversation? 15:36:49**
7 A. No. 15:36:49
8 **Q. Did you ever follow up with George 15:36:49**
9 **Hesse to find out whether there was video of 15:36:52**
10 **the incident? 15:36:54**
11 A. Not with George Hesse, no. 15:36:56
12 **Q. Did you ever follow up with anyone 15:36:57**
13 **to find out? 15:36:59**
14 A. Yes. 15:37:00
15 **Q. Who did you follow up with? 15:37:00**
16 A. Chief Ed Paradiso. 15:37:02
17 **Q. And what did chief Ed Paradiso say 15:37:03**
18 **when you asked him about that? 15:37:05**
19 A. The system was malfunctioning. 15:37:05
20 **Q. Other than the conversation with 15:37:12**
21 **George -- well, strike that. Excuse me. 15:37:13**
22 **Other than discussing the video 15:37:15**
23 **malfunction with Ed Paradiso, did you have any 15:37:18**
24 **other conversation with Ed Paradiso about the 15:37:20**
25 **Gilberd incident? 15:37:23**
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1 **Loeffler**
2 A. No. 15:37:24
3 **Q. Other than the conversation that you 15:37:25**
4 **have already referred to with George Hesse, did 15:37:27**
5 **you have any further conversations with George 15:37:29**
6 **Hesse about the Gilberd incident? 15:37:31**
7 A. No. 15:37:33
8 MR. WELCH: Objection. Asked and 15:37:33
9 answered. 15:37:34
10 MR. CONNOLLY: Objection. 15:37:34
11 A. No. 15:37:35
12 **Q. Other than the fact that there was 15:37:35**
13 **an injury in the police station, as you sit 15:37:42**
14 **here today do you have any other information as 15:37:44**
15 **to the facts involved in the Gilberd incident? 15:37:46**
16 MR. WELCH: Objection. 15:37:48
17 You can answer. 15:37:49
18 A. No, I don't. 15:37:49
19 **Q. Did George Hesse ever indicate to 15:37:51**
20 **you that the injury to Mr. Gilberd was 15:37:52**
21 **sustained when a clock hit him on the head? 15:37:54**
22 A. No. 15:37:57
23 **Q. Do you know what the nature of the 15:37:58**
24 **injuries sustained by Mr. Gilberd were? 15:38:00**
25 MR. WELCH: Do you have personal 15:38:03
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1 Loeffler
2 knowledge of what the injuries to 15:38:09
3 Mr. Gilberd are? 15:38:11
4 A. I believe it was a lacerated 15:38:13
5 bladder, but I'm not positive. 15:38:15
6 **Q. Do you know what the nature of the 15:38:23**
7 **injuries sustained by Mr. Prisco were? 15:38:24**
8 A. No, I do not. 15:38:26
9 MR. WELCH: Objection to the form of 15:38:30
10 that question. 15:38:31
11 **Q. Do you know the names of any of the 15:38:32**
12 **civilians who were involved in the Halloween 15:38:36**
13 **incident are? 15:38:38**
14 A. No, I do not. 15:38:39
15 **Q. Do you know the nature of the 15:38:41**
16 **injuries sustained by anyone in connection with 15:38:42**
17 **that incident? 15:38:45**
18 A. No, I do not. 15:38:45
19 **Q. After the Halloween incident what is 15:38:50**
20 **the first time that you can recall having any 15:38:51**
21 **communication with either Gary or Richey 15:38:53**
22 **Bosetti? 15:38:56**
23 A. I never spoke to them about that 15:38:58
24 incident. 15:38:59
25 **Q. Did you ever learn that either of 15:39:00**
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1 Loeffler
2 **them were or were not involved in the incident 15:39:05**
3 **either way? 15:39:08**
4 A. I believe I did -- I'm not -- I am 15:39:08
5 trying to think how I learned. I did learn 15:39:25
6 that they were involved in the incident, but it 15:39:27
7 wasn't from George Hesse. I am trying to 15:39:29
8 think. I don't know. I don't know. I don't 15:39:34
9 recall. 15:39:37
10 **Q. Do you recall if not who 15:39:37**
11 **communicated to you that you were involved, do 15:39:42**
12 **you recall what the nature of their involvement 15:39:45**
13 **was that was communicated? 15:39:47**
14 A. No, that they were involved. That's 15:39:48
15 all I remember. 15:39:50
16 **Q. And do you recall learning that 15:39:50**
17 **anyone else in particular was involved in the 15:39:51**
18 **incident? 15:39:55**
19 A. No. 15:39:56
20 **Q. Other than the conversations with Ed 15:39:56**
21 **Paradiso and George Hesse that you have already 15:40:00**
22 **referred to, can you recall any other 15:40:03**
23 **conversations that you had with anyone other 15:40:05**
24 **than counsel about the Halloween incident? 15:40:06**
25 MR. WELCH: Objection. Asked and 15:40:08
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1 Loeffler
2 **question -- 15:41:29**
3 A. You did. 15:41:30
4 **Q. Yes. At this point do you recall 15:41:31**
5 **anything of the specific conduct that led to 15:41:32**
6 **Officer Gerdon's termination? 15:41:35**
7 MR. WELCH: Objection. 15:41:39
8 A. I already answered that. 15:41:40
9 MR. WELCH: He answered that 15:41:40
10 question. 15:41:45
11 **Q. Do you know an individual by the 15:41:45**
12 **name of Jean Jaeger is? 15:41:47**
13 A. Yes, I know who Jean Jaeger is. 15:41:56
14 **Q. Who is Jean Jaeger? 15:41:59**
15 A. She was married to Bud Jaeger, who 15:42:00
16 is deceased now, and they ran the movie 15:42:03
17 theater. 15:42:07
18 **Q. Do you know Mr. Jean Jaeger was 15:42:07**
19 **involved in any way in the Halloween incident? 15:42:14**
20 A. No, I don't. 15:42:15
21 **Q. Have you ever had any conversations 15:42:16**
22 **with Jean Jaeger concerning the Halloween 15:42:19**
23 **incident? 15:42:22**
24 A. No. 15:42:23
25 **Q. Other than running the movie 15:42:23**
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1 Loeffler
2 answered. 15:40:09
3 You can answer it again. 15:40:09
4 A. No. 15:40:10
5 **Q. Did you discuss the Halloween 15:40:10**
6 **incident with any of your children? 15:40:12**
7 A. No. 15:40:13
8 **Q. Did you ever make a statement to 15:40:14**
9 **George Hesse to the effect of "we have to turn 15:40:36**
10 **this around" with reference to the Halloween 15:40:38**
11 **incident? 15:40:40**
12 A. No. 15:40:42
13 **Q. Did you ever make a statement to 15:40:43**
14 **that effect to anyone with reference to the 15:40:44**
15 **Halloween incident? 15:40:49**
16 A. No. 15:40:50
17 **Q. Do you recall whether the events 15:41:07**
18 **that led to Officer Gerdon's termination were 15:41:10**
19 **captured by any video surveillance system? 15:41:14**
20 A. Yes, they were. 15:41:18
21 **Q. And did you ever review that video? 15:41:21**
22 MR. WELCH: Objection. Asked and 15:41:23
23 answered. 15:41:23
24 A. No, I did not. 15:41:24
25 **Q. And I may have already asked the 15:41:25**
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1 Loeffler
2 **theater, do you know if Bud Jaeger held any 15:42:26**
3 **other employment? 15:42:28**
4 A. He was a New York City fireman. 15:42:30
5 **Q. Do you know what position he held at 15:42:32**
6 **the New York City Fire Department? 15:42:34**
7 A. He was a lieutenant. 15:42:36
8 **Q. Do you know whether he was ever a 15:42:37**
9 **captain? 15:42:39**
10 A. Oh, maybe he was. I don't -- could 15:42:39
11 have been. 15:42:42
12 **Q. Is Bud Jaeger ever referred to as 15:42:42**
13 **Steven Jaeger? Is that the same person? 15:42:46**
14 A. Yes. 15:42:48
15 **Q. What was the nature of your 15:42:49**
16 **relationship with Jean Jaeger? 15:42:51**
17 MR. WELCH: Objection. 15:42:53
18 To the extent you have one. 15:42:54
19 A. She is Bud's wife. No relationship. 15:42:57
20 They worked the movie theater. 15:43:00
21 **Q. Were you ever -- were you friends 15:43:02**
22 **with Bud Jaeger when he was living? 15:43:05**
23 A. No. 15:43:06
24 **Q. Do you know an individual by the 15:43:07**
25 **name of Sean O'Rourke? 15:43:09**
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1 Loeffler
2 A. Sean O'Rourke? Yes. 15:43:12
3 Q. And who is Sean O'Rourke? 15:43:13
4 A. He is resident of the Village. 15:43:16
5 Q. Do you know where he works? 15:43:19
6 A. In construction. In construction. 15:43:21
7 Q. And do you know whether his 15:43:26
8 construction work is based in Ocean Beach? 15:43:27
9 A. Fire Island, yes. 15:43:29
10 Q. And what, if any, relationship do 15:43:31
11 you have with Sean O'Rourke? 15:43:36
12 A. He is a captain of the Fire 15:43:37
13 Department. I saw him last night at a fire. 15:43:39
14 Q. Do you know whether Sean O'Rourke 15:43:41
15 had any involvement in the Halloween incident? 15:43:42
16 A. No, I don't. 15:43:45
17 Q. Did you ever discuss the Halloween 15:43:46
18 incident with Sean O'Rourke? 15:43:48
19 A. No. 15:43:50
20 Q. Have you ever heard of an individual 15:43:51
21 named Ian Levine? 15:43:56
22 A. Yes. 15:43:57
23 Q. Who is Ian Levine? 15:43:58
24 A. Resident of the Village of Ocean 15:43:59
25 Beach. 15:44:01
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1 Loeffler
2 Q. Do you know where Ian Levine works? 15:44:01
3 A. He runs the community garden center 15:44:05
4 business in the Village of Ocean Beach. 15:44:10
5 Q. And what, if any, relationship do 15:44:11
6 you have with Ian Levine? 15:44:14
7 A. I saw him last night at the fire 15:44:15
8 too. He is a member of the Fire Department. 15:44:18
9 Q. And when you are referring to seeing 15:44:20
10 people last night at the Fire Department, can 15:44:21
11 you explain what the context of that was? 15:44:24
12 A. We had a fire alarm last night and 15:44:25
13 they showed up. 15:44:28
14 Q. Do you know whether Ian Levine had 15:44:29
15 any involvement in the Halloween incident? 15:44:31
16 A. No, I do not. 15:44:32
17 Q. Did you ever discuss it with Ian 15:44:33
18 Levine? 15:44:34
19 A. No, I have not. 15:44:34
20 Q. Do you know an individual by the 15:44:36
21 name of Elyse Miller? 15:44:38
22 THE COURT REPORTER: I'm sorry? 15:44:38
23 MR. GRAFF: Elyse Miller. 15:44:40
24 E-L-Y-S-E. 15:44:42
25 A. No, I don't know that name. 15:44:42
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1 Loeffler
2 Q. Do you know an individual by the 15:44:44
3 name of Douglas Wykoff? 15:44:51
4 A. Yes. 15:44:53
5 Q. Who is Douglas Wykoff? 15:44:54
6 A. A resident of the Village of Ocean 15:44:55
7 Beach. 15:44:58
8 Q. How long have you known Doug Wykoff? 15:44:58
9 A. Thirty years, forty year. I don't 15:45:01
10 know how old Doug is. Forty years. 15:45:05
11 Q. And how would you describe your 15:45:06
12 relationship with Doug Wykoff? 15:45:09
13 A. He was my kid's kindergarten 15:45:11
14 teacher. 15:45:15
15 Q. And were you friendly with Doug 15:45:15
16 Wykoff's family? 15:45:20
17 A. Yes. 15:45:22
18 Q. Does he live with his family in 15:45:23
19 Ocean Beach? 15:45:25
20 A. Yes. 15:45:25
21 Q. What is Doug Wykoff's wife's name? 15:45:25
22 A. This is a question and answer. 15:45:31
23 Dale. Dale Wykoff. 15:45:33
24 Q. With a D? 15:45:34
25 A. With a D, yes. 15:45:36
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1 Loeffler
2 Q. And what is Dale Wykoff's employment 15:45:37
3 in Ocean Beach, if any? 15:45:42
4 A. She is employed by the U.S. Postal 15:45:42
5 Service. 15:45:45
6 Q. Do you know whether the Wykoffs have 15:45:45
7 any children? 15:45:53
8 A. Yes. 15:45:54
9 Q. How many children do they have? 15:45:55
10 A. They had two. One is living. One 15:45:56
11 is deceased. 15:46:03
12 Q. What's the name of the child who is 15:46:04
13 living? 15:46:08
14 A. Marissa. 15:46:09
15 MR. WELCH: I don't know if this is 15:46:10
16 relevant, Ari. 15:46:12
17 A. She is a New York City police 15:46:15
18 officer. 15:46:16
19 Q. Do you recall that earlier today I 15:46:17
20 had asked you about any investigations or about 15:46:18
21 certain investigation concerning Ed Paradiso's 15:46:21
22 dual employment? 15:46:25
23 A. Yes. 15:46:25
24 Q. Do you know whether Dale Wykoff 15:46:26
25 played any role in that investigation? 15:46:30
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1 **Loeffler**
2 MR. WELCH: Objection to the form. 15:46:32
3 Objection to the use of the term 15:46:34
4 "investigation." That wasn't your question 15:46:35
5 earlier today. Your earlier question 15:46:39
6 involved Mayor Rogers' investigation. 15:46:41
7 So to the extent that you can answer 15:46:43
8 the question, I am noting my objection, you 15:46:46
9 can. 15:46:48
10 A. Ask the question again. 15:46:49
11 **Q. Do you know whether Dale Wykoff 15:46:52**
12 **played any role in the investigation by Mayor 15:46:54**
13 **Rogers involving Ed Paradiso's dual employment? 15:46:59**
14 MR. WELCH: Objection. The question 15:47:01
15 is did you play a role in the 15:47:02
16 investigation. 15:47:05
17 A. No, I don't know that. 15:47:06
18 **Q. Do you know whether Dale Wykoff ever 15:47:07**
19 **conducted her own investigation into that 15:47:10**
20 **matter? 15:47:12**
21 A. No, I do not. 15:47:12
22 **Q. How old is Marissa Wykoff? 15:47:14**
23 A. She has got to be in her thirties. 15:47:23
24 **Q. And what was the name of Wykoffs' 15:47:26**
25 **child that passed away? 15:47:28**
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1 **Loeffler**
2 MR. WELCH: Objection. Ari, this is 15:47:29
3 very irrelevant. 15:47:31
4 A. Douglas Junior. 15:47:32
5 **Q. And how old was Douglas -- when did 15:47:34**
6 **Douglas Junior pass away? 15:47:37**
7 A. Let's see. He was 18. My son is 15:47:39
8 25. About seven, eight years ago maybe. Maybe 15:47:54
9 eight years ago. 15:47:57
10 **Q. Was Douglas Junior, to your 15:47:57**
11 **knowledge, friends with Mike Loeffler? 15:48:04**
12 A. Yes. They were Boy Scouts together. 15:48:05
13 **Q. What, if anything, do you know about 15:48:18**
14 **the circumstances of Doug Wykoff Junior's 15:48:21**
15 **death? 15:48:23**
16 MR. WELCH: Objection. Ari, what is 15:48:23
17 the relevance of this to any of the 15:48:25
18 allegations in this Complaint? Unless you 15:48:26
19 can articulate that to me, I am going to 15:48:28
20 direct the witness not to answer that 15:48:30
21 question. And you can take it up with the 15:48:32
22 judge, if you want. You can call the judge 15:48:35
23 right now. We have time. 15:48:37
24 **Q. Do you know whether Michael Loeffler 15:48:43**
25 **was ever questioned at all by any member of the 15:48:53**
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1 **Loeffler**
2 **Ocean Beach Police Department in connection 15:48:58**
3 **with the circumstances of Doug Wykoff Junior's 15:49:00**
4 **death? 15:49:03**
5 MR. WELCH: Objection. I am going 15:49:03
6 to direct the witness not to answer that 15:49:04
7 question. Next question. 15:49:05
8 **Q. Did you ever have any communications 15:49:06**
9 **with any of the plaintiffs in this lawsuit 15:49:08**
10 **concerning the circumstances of Doug Wykoff 15:49:10**
11 **Junior's death? 15:49:12**
12 A. No. 15:49:13
13 **Q. Did you have any conversations with 15:49:13**
14 **any Ocean Beach police officers concerning the 15:49:17**
15 **circumstances of Doug Wykoff Junior's death? 15:49:19**
16 A. No. 15:49:21
17 **Q. Did you have any communications ever 15:49:22**
18 **with Mike Loeffler concerning the circumstances 15:49:25**
19 **of Doug Wykoff Junior's death? 15:49:26**
20 MR. WELCH: Objection. I am going 15:49:28
21 to direct the witness not to answer the 15:49:29
22 question. 15:49:30
23 **Q. Do you know an individual by the 15:49:31**
24 **name of Mitch Burns? 15:49:33**
25 A. No. 15:49:33
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1 **Loeffler**
2 **Q. Have you heard that name prior to 15:49:34**
3 **today? 15:49:36**
4 A. Yes. 15:49:37
5 **Q. When did you first hear that name? 15:49:38**
6 A. It was mentioned -- I believe it's 15:49:40
7 in the lawsuit. 15:49:41
8 **Q. Other than any reference to it in 15:49:45**
9 **the lawsuit, do you recall ever hearing Mitch 15:49:48**
10 **Burns' name in another context? 15:49:53**
11 A. Never met the man. Never met the 15:49:54
12 man. 15:49:58
13 **Q. Did you ever hear his name other 15:49:58**
14 **than in connection with this lawsuit? 15:50:00**
15 A. No. 15:50:01
16 **Q. And what reference is there to Mitch 15:50:02**
17 **Burns in this lawsuit? 15:50:14**
18 MR. WELCH: Objection. Ari, why 15:50:15
19 don't you show him the Complaint and ask 15:50:16
20 him if he recalls the specific allegation. 15:50:18
21 **Q. Do you recall any allegations 15:50:18**
22 **involving Mitch Burns? 15:50:20**
23 A. No, I don't recall the allegation. 15:50:20
24 I just remember -- I remember the name. 15:50:24
25 **Q. And you remember the name from 15:50:25**
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1 Loeffler
2 reviewing the Complaint in this lawsuit? 15:50:33
3 A. Yeah, I think so. 15:50:34
4 Q. If I showed you the Complaint, do 15:50:43
5 you think you could find the spot? 15:50:45
6 A. No, I probably couldn't. 15:50:46
7 Q. Did you ever review the answer that 15:50:49
8 was filed to this Complaint in federal court, 15:50:53
9 that is, these Plaintiffs' Complaint? 15:50:56
10 A. Is that the one you showed me today? 15:50:59
11 Q. No. The Answer to the Complaint, 15:51:01
12 not to the Interrogatories. 15:51:07
13 A. Well, I'm not an attorney, so I 15:51:09
14 don't know exactly what you are asking me. 15:51:11
15 Q. Do you have any information 15:51:21
16 concerning an incident involving one of the 15:51:22
17 Bosettis and an evidence locker on the Great 15:51:24
18 South Bay? 15:51:28
19 A. No. 15:51:28
20 Q. Do you recall reading an allegation 15:51:29
21 involving those three matters in the Complaint? 15:51:31
22 MR. WELCH: Objection. Did you say 15:51:34
23 "three matters"? Maybe I misunderstood the 15:51:36
24 question. Can you repeat the question. 15:51:40
25 (Record read.) 15:51:54
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1 Loeffler
2 mischaracterizing the testimony. 15:53:21
3 If you can answer it, go ahead. 15:53:22
4 A. Would you ask that again, please. 15:53:24
5 Q. I believe you had earlier indicated 15:53:27
6 that George Hesse had communicated to you that 15:53:29
7 the investigation of the Halloween incident 15:53:31
8 conducted on the night of the incident was 15:53:33
9 improper and that another investigation would 15:53:35
10 be conducted. 15:53:36
11 A. He was instructed by Ed Paradiso to 15:53:37
12 do that, yes. 15:53:40
13 Q. Did you ever speak about that 15:53:41
14 subject with Ed Paradiso? 15:53:43
15 MR. WELCH: Objection. Asked and 15:53:46
16 answered. 15:53:46
17 You can answer it again. 15:53:46
18 A. No, I never did. 15:53:47
19 Q. And did you ever have any further 15:53:49
20 conversations with George Hesse about that 15:53:50
21 investigation that you referred to? 15:53:51
22 MR. WELCH: Objection. Asked and 15:53:53
23 answered. 15:53:54
24 You can answer it again. 15:53:54
25 A. No. 15:53:55
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1 Loeffler
2 MR. WELCH: So I am going to object 15:51:56
3 to the form. It's compound. If you could 15:51:58
4 just break down those three matters so we 15:52:00
5 can get a clear record, I'd appreciate it. 15:52:01
6 Q. Do you recall any allegation in the 15:52:02
7 Complaint that involved all three of those 15:52:03
8 matters? 15:52:05
9 A. What matters is that? 15:52:05
10 Q. An evidence locker, a Bosetti, and 15:52:07
11 the Great South Bay. 15:52:09
12 A. No. 15:52:10
13 Q. Would your answer be the same if I 15:52:11
14 changed evidence locker to file cabinet? 15:52:25
15 MR. WELCH: Objection to the form. 15:52:29
16 His answer is his answer. What he 15:52:31
17 testified to earlier -- 15:52:32
18 A. I don't know what you are talking 15:52:33
19 about, so I'm sorry. 15:52:34
20 Q. When George Hesse communicated to 15:53:07
21 you that there was going to be a follow-up or 15:53:10
22 a second investigation of the Halloween 15:53:15
23 incident, do you recall what I am referring to? 15:53:16
24 MR. WELCH: I am going to object to 15:53:18
25 the form of the question. It's 15:53:19
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1 Loeffler
2 MR. GRAFF: How much time, if I 15:53:55
3 could ask the videographer, is left on this 15:54:02
4 tape? 15:54:04
5 THE VIDEOGRAPHER: 59 minutes. 15:54:04
6 MR. GRAFF: I'd like to take a brief 15:54:10
7 break. 15:54:12
8 MR. WELCH: Five minutes? 15:54:14
9 MR. GRAFF: Yes. 15:54:15
10 THE VIDEOGRAPHER: Going off the 15:54:16
11 record. The time is 3:54 p.m. 15:54:17
12 (Recess was taken from 3:54 to 15:54:19
13 4:04.) 15:54:20
14 THE VIDEOGRAPHER: We are back on 16:02:20
15 the record. The time is 4:04 p.m. 16:03:53
16 BY MR. GRAFF: 16:03:58
17 Q. When I left earlier, I had asked you 16:03:58
18 if you knew who Mitch Burns is. 16:04:01
19 A. Yes. 16:04:03
20 Q. And your answer was you do not know 16:04:04
21 who Mitch Burns is? 16:04:05
22 A. No, I don't. 16:04:06
23 Q. The Complaint makes reference to a 16:04:07
24 known drug dealer. Is that the reference to 16:04:09
25 Mitch Burns that you were referring to earlier? 16:04:12
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1 **Loeffler**
2 MR. WELCH: Objection to the form. 16:04:14
3 You can answer. 16:04:15
4 A. I don't know. I don't know who 16:04:17
5 Mitch -- I've heard the name, but I don't know 16:04:18
6 who he is. I have never met the man. 16:04:20
7 **Q. Have you heard what his employment, 16:04:24**
8 **if any, is? 16:04:26**
9 A. No. I don't know him. I just said 16:04:27
10 I never met the man, never spoke to the man. I 16:04:28
11 don't know who he is. 16:04:31
12 **Q. Other than possibly reading his name 16:04:32**
13 **in the Complaint, do you have any idea where 16:04:33**
14 **else you would have heard the name? 16:04:35**
15 A. No. No, I don't. 16:04:38
16 **Q. Do you know if Ed Paradiso has ever 16:04:48**
17 **sued the Incorporated Village of Ocean Beach? 16:04:52**
18 A. Yes. Yes, he has. 16:04:54
19 **Q. And has he sued Ocean Beach on more 16:04:56**
20 **than one occasion? 16:05:00**
21 A. One that I'm aware of. 16:05:01
22 **Q. And what was -- what were the nature 16:05:04**
23 **of the allegations against Ocean Beach that Ed 16:05:07**
24 **Paradiso made on that occasion that you are 16:05:09**
25 **aware of? 16:05:11**
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1 **Loeffler**
2 A. It's ongoing litigation with 16:05:12
3 reference to a wage dispute. 16:05:14
4 **Q. So that litigation has not been 16:05:17**
5 **resolved? 16:05:21**
6 A. No, it has not. 16:05:22
7 **Q. And when did Ed Paradiso initiate 16:05:23**
8 **that litigation? 16:05:25**
9 A. While he was out injured in the line 16:05:26
10 of duty. 16:05:28
11 **Q. And what is he alleging in 16:05:29**
12 **connection with the wage dispute? 16:05:32**
13 MR. WELCH: That you are aware of. 16:05:34
14 Objection to form, but you can answer. 16:05:36
15 A. He is alleging that he is entitled 16:05:37
16 to certain benefits that we don't feel he is 16:05:39
17 entitled to. 16:05:43
18 **Q. And what benefits? 16:05:43**
19 A. Monetary benefits. 16:05:45
20 **Q. And how much money is at issue? 16:05:46**
21 A. I don't know. 16:05:49
22 **Q. Do you know if you were named as an 16:05:52**
23 **individual defendant in that lawsuit? 16:05:54**
24 A. No, I was not. 16:05:55
25 **Q. And who is representing the Village 16:05:57**
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1 **Loeffler**
2 **in connection with that lawsuit? 16:06:00**
3 A. Bee Ready Fishbein Hatter Donovan. 16:06:01
4 **Q. Other than this lawsuit, is the law 16:06:04**
5 **firm -- has the law firm of Rivkin Radler 16:06:06**
6 **represented the Village of Ocean Beach in any 16:06:08**
7 **other case that you are aware of? 16:06:10**
8 MR. WELCH: I am going to object to 16:06:13
9 the form. 16:06:14
10 If you know. Do you know? 16:06:16
11 A. I'm not sure. I'm not sure. 16:06:17
12 Because I think you guys might represent us in 16:06:23
13 another case. You do. That's -- the Gilberd 16:06:25
14 case. I think you have that now. 16:06:29
15 MR. WELCH: Do you know? If you 16:06:31
16 don't know, you don't know. 16:06:32
17 A. Yes, you do. Rivkin Radler does 16:06:33
18 represent us in another case. 16:06:37
19 MR. JEMAL: Just by Village counsel, 16:06:39
20 that's something that was recently 16:06:41
21 transferred to this firm, representation of 16:06:42
22 the Village on the Samuel Gilberd case 16:06:44
23 against the Incorporated Village of Ocean 16:06:47
24 Beach. 16:06:50
25 **Q. And the Samuel Gilberd case against 16:06:50**
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1 **Loeffler**
2 **the Incorporated Village of Ocean Beach, that's 16:06:53**
3 **a civil lawsuit? 16:06:53**
4 A. Yes, it is. 16:06:54
5 **Q. Do you know -- have you reviewed the 16:06:55**
6 **Complaint that was filed in that lawsuit? 16:06:57**
7 A. Yes, I have, but I don't remember 16:06:58
8 when or where. I have read it. 16:07:06
9 **Q. And can you describe as best you can 16:07:08**
10 **recall what Samuel Gilberd's allegations 16:07:11**
11 **against Ocean Beach are? 16:07:13**
12 MR. WELCH: As he remembers from 16:07:14
13 reading the Complaint? 16:07:16
14 MR. GRAFF: From any source. 16:07:16
15 MR. WELCH: Or any personal 16:07:17
16 knowledge of, which he has already 16:07:18
17 testified to? Not any source. I am asking 16:07:19
18 you to clarify the question, please. He 16:07:21
19 has already testified to his knowledge of 16:07:24
20 the Gilberd incident, his personal 16:07:25
21 knowledge of it, which he didn't have. So 16:07:27
22 now you are asking for knowledge that he 16:07:29
23 gained from reading somebody else's 16:07:30
24 Complaint? 16:07:32
25 MR. GRAFF: Yes. 16:07:32
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1 Loeffler
2 MR. WELCH: Do you have any 16:07:32
3 knowledge about the incident from reading 16:07:33
4 about somebody else's Complaint? 16:07:35
5 A. He -- to the best of my 16:07:37
6 recollection, he makes an allegation that he 16:07:40
7 was injured while in custody. That's the sum 16:07:43
8 and substance of what I can remember the 16:07:48
9 Complaint to be. 16:07:49
10 **Q. Do you know if you are an individual 16:07:50**
11 **defendant in that lawsuit? 16:07:51**
12 A. I don't believe I am. 16:07:52
13 **Q. Do you know whether you have been 16:07:56**
14 **named as an individual defendant in any 16:08:02**
15 **lawsuits other than this lawsuit in connection 16:08:04**
16 **with your service at Ocean Beach? 16:08:06**
17 MR. WELCH: Objection. Asked and 16:08:08
18 answered about five hours ago, but you can 16:08:09
19 answer it again. 16:08:11
20 A. No. 16:08:11
21 **Q. Do you know whether former Mayor 16:08:12**
22 **Rogers has been named as an individual 16:08:16**
23 **defendant in any other lawsuit other than this 16:08:17**
24 **lawsuit in connection with her service at Ocean 16:08:19**
25 **Beach? 16:08:21**
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1 Loeffler
2 A. No, I do not. 16:08:21
3 **Q. Do you know whether Alan Loeffler 16:08:23**
4 **has been named as an individual defendant in 16:08:29**
5 **any lawsuit in connection with carrying out any 16:08:31**
6 **law enforcement duties that he has? 16:08:39**
7 MR. WELCH: Objection to the form, 16:08:41
8 and Alan Loeffler it's been established he 16:08:46
9 is not working for the Village anymore, so 16:08:48
10 he doesn't have any continuing duties. 16:08:50
11 MR. GRAFF: I said any law 16:08:52
12 enforcement duties that he has. 16:08:53
13 MR. WELCH: That he has. He doesn't 16:08:55
14 work for the Village anymore. You are 16:08:56
15 saying if he is still employed in a law 16:08:57
16 enforcement capacity? 16:08:57
17 MR. GRAFF: Yes. 16:08:59
18 MR. WELCH: You need to establish 16:09:01
19 that foundation if he is still employed in 16:09:02
20 law enforcement. I don't think you have. 16:09:04
21 MR. GRAFF: Okay. I am asking now 16:09:04
22 if Mayor Loeffler knows whether his 16:09:06
23 brother, Alan Loeffler, has been named as 16:09:08
24 an individual defendant in connection with 16:09:10
25 the execution of any law enforcement duties 16:09:12
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1 Loeffler
2 that he may have in his capacity as an 16:09:14
3 employee of any employer. 16:09:17
4 MR. WELCH: Ever? Or right now? If 16:09:18
5 he is still employed is there a lawsuit 16:09:20
6 pending against him or is he a defendant in 16:09:22
7 a lawsuit? 16:09:24
8 MR. GRAFF: Has he ever been a 16:09:24
9 defendant in a lawsuit in connection with 16:09:25
10 his execution of law enforcement duties 16:09:27
11 that Mayor Loeffler is aware of. 16:09:30
12 MR. WELCH: Ever. 16:09:32
13 MR. GRAFF: Yes. 16:09:32
14 A. Yes. 16:09:33
15 **Q. Has he been involved in more than 16:09:33**
16 **one such lawsuit that you are aware of? 16:09:35**
17 A. I don't know. 16:09:37
18 **Q. And the one lawsuit that you are 16:09:39**
19 **aware of, is that still pending? 16:09:42**
20 A. Yes. 16:09:44
21 **Q. And do you know who the plaintiff is 16:09:44**
22 **in that lawsuit? 16:09:45**
23 A. No. 16:09:46
24 **Q. And do you know what the nature of 16:09:46**
25 **the allegations against Alan Loeffler are in 16:09:48**
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1 Loeffler
2 **that lawsuit? 16:09:49**
3 A. No, I do not. 16:09:50
4 **Q. Do you know whether it's alleged 16:09:51**
5 **that Alan Loeffler -- 16:09:53**
6 A. I just said I didn't know. So it 16:09:54
7 doesn't matter. 16:09:56
8 **Q. You don't know any of the 16:09:56**
9 **allegations? 16:09:57**
10 A. No, I don't know any of the 16:09:57
11 allegations. 16:09:57
12 **Q. Have you ever discussed it with Alan 16:09:58**
13 **Loeffler? 16:09:59**
14 A. I know he has a pending lawsuit. 16:10:00
15 That's all I know. 16:10:01
16 **Q. Do you know when that lawsuit was 16:10:02**
17 **commenced? 16:10:04**
18 A. No. 16:10:04
19 **Q. Do you know whether that lawsuit was 16:10:05**
20 **commenced prior to Alan Loeffler's retirement? 16:10:12**
21 A. Retirement from where? 16:10:18
22 **Q. From Ocean Beach. 16:10:22**
23 A. No. I don't -- he didn't -- I 16:10:26
24 don't -- no, I don't know that. 16:10:30
25 **Q. Did Alan Loeffler ever work at Ocean 16:10:31**
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1 Loeffler
2 Beach? 16:10:33
3 A. He absolutely did. 16:10:33
4 Q. As a police officer? 16:10:34
5 A. Absolutely did. 16:10:35
6 Q. Do you know when he retired from 16:10:36
7 that position? 16:10:37
8 A. He never retired from that position. 16:10:38
9 Q. Is he still working as a police 16:10:39
10 officer? 16:10:43
11 A. No. 16:10:43
12 Q. But his employment as a police 16:10:46
13 officer at Ocean Beach is not ongoing; is that 16:10:48
14 correct? 16:10:50
15 A. That's correct. 16:10:51
16 Q. Okay. Mayor Loeffler, are you aware 16:10:52
17 that plaintiffs' allegations in this case 16:11:03
18 include the claims against George Hesse for 16:11:05
19 defamation? 16:11:12
20 A. Yes. 16:11:13
21 Q. And do you know what plaintiffs 16:11:14
22 have -- in what way plaintiffs have alleged 16:11:17
23 that George Hesse defamed them? 16:11:19
24 A. No, I don't. 16:11:21
25 Q. Have you ever discussed those 16:11:21
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1 Loeffler
2 allegations with George Hesse? 16:11:23
3 A. No, I have not. 16:11:24
4 Q. Have you ever discussed those 16:11:25
5 allegations with anyone other than your 16:11:26
6 counsel? 16:11:27
7 A. No, I have not. 16:11:27
8 MR. GRAFF: I am going to ask the 16:11:33
9 court reporter to please mark as 16:11:35
10 Exhibit Loeffler 15 a three-page document 16:11:36
11 bearing Bates number 10182 through 10184. 16:11:48
12 (Loeffler Exhibit 15, Pending 16:11:59
13 Claims, Bates stamped 010182 through 16:11:59
14 010184, marked for identification.) 16:12:01
15 Q. Mayor Loeffler, while your counsel 16:12:29
16 is looking at those documents, geographically, 16:12:30
17 what is the distance between the Town of Islip 16:12:37
18 and Ocean Beach? That is, how would one -- 16:12:44
19 strike that. 16:12:48
20 How would one travel from the Town 16:12:49
21 of Islip to Ocean Beach? 16:12:51
22 A. Ocean Beach is in the Town of Islip. 16:12:52
23 Q. Okay. And the Town of Islip Harbor 16:12:57
24 Police, do you know what their jurisdiction is? 16:13:02
25 A. The Town of Islip. 16:13:04
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1 Loeffler
2 Q. And does that include Ocean Beach? 16:13:05
3 A. The waters in front of -- yes, the 16:13:08
4 waters in Ocean Beach, yes, it would. 16:13:11
5 Q. And just so I'm clear, does the Town 16:13:13
6 of Islip have overlapping jurisdiction with 16:13:20
7 Ocean Beach Police Department or are they 16:13:21
8 separate? 16:13:24
9 MR. WELCH: Objection to the form of 16:13:24
10 the question. To the extent it also calls 16:13:25
11 for a legal conclusion. 16:13:27
12 You can answer the question. 16:13:28
13 A. I don't know exactly what their 16:13:30
14 jurisdiction is. 16:13:31
15 Q. Do you know who the chief or head of 16:13:32
16 the Town of Islip Harbor Police Department is? 16:13:37
17 A. Robert Sgroi. 16:13:42
18 Q. And do you know who preceded him in 16:13:43
19 that position? 16:13:45
20 A. My brother, Alan Loeffler. 16:13:45
21 Q. And what position does Alan Loeffler 16:13:48
22 currently hold with the Town of Islip Harbor 16:13:51
23 Police? 16:13:54
24 A. None. 16:13:54
25 Q. Is Alan Loeffler currently employed 16:13:56
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1 Loeffler
2 by any employer? 16:13:59
3 A. No. 16:14:00
4 Q. Do you know why he stopped serving 16:14:01
5 as chief of the Harbor -- Town of Islip Harbor 16:14:03
6 Police? 16:14:09
7 A. Yes. 16:14:09
8 Q. And why? 16:14:09
9 A. Because he spent thirty years there 16:14:10
10 and he retired. 16:14:12
11 Q. Mayor Loeffler, when you have had a 16:14:16
12 chance to review the document that's been 16:14:23
13 marked Loeffler 15, could you tell me, please, 16:14:25
14 if you have ever seen it before? 16:14:27
15 MR. WELCH: The question is have you 16:14:29
16 seen this before. 16:14:30
17 (Document review.) 16:14:48
18 A. I've never seen this document. 16:14:48
19 Q. Let's put it aside. 16:14:50
20 Have you ever heard of a person 16:14:52
21 named Harriet Beizer before, B-E-I-Z-E-R? 16:14:54
22 A. Yes. 16:14:57
23 Q. And who is Harriet Beizer? 16:14:58
24 A. She is a resident of the Village of 16:14:59
25 Ocean Beach. 16:15:01
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1 Loeffler
2 **Q. And when did you first meet Harriet 16:15:02**
3 **Beizer? 16:15:04**
4 A. I've never met Harriet Beizer. 16:15:05
5 **Q. How do you know who she is? 16:15:06**
6 A. She filed a lawsuit against the 16:15:08
7 Village. 16:15:09
8 **Q. And what is she alleging as a basis 16:15:10**
9 **for her lawsuit? 16:15:13**
10 A. I believe the lawsuit has been 16:15:13
11 settled and there is a confidentiality 16:15:16
12 agreement on that lawsuit, so I don't know if I 16:15:19
13 could pierce that. 16:15:21
14 MR. WELCH: Do you need to step 16:15:23
15 outside and speak with counsel about it? 16:15:24
16 MR. GRAFF: I would like to follow 16:15:26
17 up on that. If you guys need to confer, 16:15:28
18 please do. 16:15:30
19 MR. WELCH: Yes, we will take a 16:15:30
20 minute. 16:15:32
21 THE VIDEOGRAPHER: Going off the 16:15:32
22 record. The time is 4:16 p.m. 16:15:33
23 (Recess was taken from 4:16 to 16:15:35
24 4:29.) 16:15:36
25 THE VIDEOGRAPHER: We are back on 16:23:00
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1 Loeffler
2 the record. The time is 4:29 p.m. This is 16:28:47
3 the beginning of the tape labeled number 5. 16:28:51
4 (Mr. Novikoff enters.) 16:28:51
5 MR. GRAFF: If the court reporter 16:28:56
6 could please read back my last question 16:28:57
7 before the break. 16:28:59
8 (Record read.) 16:29:12
9 MR. NOVIKOFF: Yeah, the position we 16:29:13
10 are going to take is that to Mr. -- Mayor 16:29:14
11 Loeffler's recollection and belief the 16:29:18
12 confidentiality provision prevents him from 16:29:21
13 testifying in this -- on this issue without 16:29:24
14 a court order, so if it's something you 16:29:27
15 want to take up with the judge at a later 16:29:29
16 date and the judge rules that it's 16:29:32
17 relevant, then Mr. Loeffler has to testify 16:29:34
18 or otherwise produce a copy of the 16:29:36
19 confidentiality agreement, then obviously 16:29:38
20 we will comply with any court order, but -- 16:29:40
21 MR. GRAFF: Okay, and without 16:29:43
22 reference to the confidentiality agreement, 16:29:44
23 is your position that he can't answer 16:29:46
24 questions about the allegations at all in 16:29:47
25 that case? 16:29:49
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1 Loeffler
2 MR. NOVIKOFF: I think they are 16:29:49
3 palpably irrelevant and I don't know the 16:29:51
4 scope of the confidentiality agreement, 16:29:52
5 quite frankly, and I don't know how far it 16:29:54
6 goes. I don't know if it says you can't 16:29:56
7 discuss anything about the lawsuit. I 16:29:58
8 would think it would, because it's 16:30:00
9 presumably, I don't know, a settlement 16:30:02
10 agreement, and I think the safer approach 16:30:04
11 would be to mark it and take it up with the 16:30:08
12 judge and if the judge finds it, one, 16:30:11
13 relevant and, two, that he could testify 16:30:15
14 pursuant to the confidentiality agreement, 16:30:17
15 then we will do it. 16:30:19
16 RL MR. GRAFF: Let's just mark the 16:30:20
17 transcript for ease at this point. 16:30:21
18 MR. NOVIKOFF: Yes. 16:30:21
19 MR. GRAFF: I won't press on that 16:30:23
20 issue if you haven't seen the 16:30:25
21 confidentiality -- 16:30:26
22 MR. NOVIKOFF: Yeah, I haven't seen 16:30:27
23 it. I would suggest perhaps in the future, 16:30:29
24 not in this case, in another case, if you 16:30:31
25 think you are going to go into a line of 16:30:34
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1 Loeffler
2 questioning where there was a settlement 16:30:34
3 agreement with a municipality, you give us 16:30:36
4 some notice and we could then find a 16:30:38
5 confidentiality agreement and maybe avoid 16:30:40
6 this issue, but... 16:30:42
7 MR. GRAFF: Counsel, I didn't know 16:30:44
8 that the case had been settled until -- 16:30:45
9 MR. NOVIKOFF: No, I understand. I 16:30:47
10 understand. 16:30:48
11 BY MR. GRAFF: 16:30:51
12 **Q. Mayor Loeffler, are you familiar 16:30:51**
13 **with a business in Ocean Beach called the 16:30:53**
14 **Island Mermaid Corporation? 16:30:56**
15 A. Yes. 16:30:58
16 **Q. And what is the nature of that 16:30:59**
17 **business? 16:31:00**
18 A. It's a bar/restaurant. 16:31:00
19 **Q. And, to your knowledge, has the 16:31:02**
20 **Island Mermaid Corporation brought any lawsuit 16:31:03**
21 **against Ocean Beach during your service as 16:31:05**
22 **trustee or mayor? 16:31:07**
23 A. Yes. 16:31:08
24 **Q. And do you know what the nature of 16:31:08**
25 **the allegations in that lawsuit are? 16:31:10**
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1 Loeffler
2 A. No, I'm not familiar with it. 16:31:11
3 Q. Mayor Loeffler, how many properties 16:31:13
4 do you own in the Village of Ocean Beach? 16:31:33
5 A. One. 16:31:36
6 Q. And what address is that property 16:31:37
7 located at? 16:31:39
8 A. 68 Ocean Road. 16:31:40
9 Q. And is there an address 69 Ocean 16:31:42
10 Road? 16:31:44
11 A. It's 68-69. It's two lots. 16:31:44
12 Q. Other than that property, do you own 16:31:49
13 any other properties? 16:31:50
14 A. Not in the Village of Ocean Beach, 16:31:51
15 no, I do not. 16:31:53
16 Q. What about outside the Village of 16:31:53
17 Ocean Beach? 16:31:55
18 A. Yes, I do. 16:31:55
19 Q. And how many properties do you own 16:31:56
20 outside of the Village of Ocean Beach? 16:31:57
21 A. One. 16:31:59
22 Q. And where is that property located? 16:31:59
23 A. In Seaview. 16:32:02
24 Q. And is that a rental property? 16:32:03
25 A. Yes, it is. 16:32:07
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1 Loeffler
2 Q. And where is that property located? 16:32:08
3 A. 29 Beachwold Walk, Seaview. 16:32:11
4 Q. Do you own any properties in the 16:32:21
5 state of Florida? 16:32:23
6 A. Yes, I do. 16:32:24
7 Q. And how many properties do you own 16:32:25
8 in Florida? 16:32:28
9 A. I own one. 16:32:29
10 Q. And where is that property located? 16:32:30
11 A. 2921 South Ocean Boulevard, Highland 16:32:32
12 Beach, Florida. 16:32:37
13 Q. And do you know what the assessed 16:32:38
14 value of that property is? 16:32:39
15 A. No, I do not. 16:32:41
16 Q. Do you know what the assessed value 16:32:41
17 of the property that you own in Ocean Beach is? 16:32:42
18 A. No, I do not. 16:32:44
19 Q. Do you know what the assessed value 16:32:45
20 of the property that you referenced outside of 16:32:46
21 Ocean Beach that you own? 16:32:51
22 A. No, I don't. 16:32:52
23 Q. Other than those three properties, 16:32:52
24 do you own any other properties? 16:32:54
25 A. I own a piece of property, a lot, in 16:32:56
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1 Loeffler
2 Crystal River, Florida, a piece of vacant land. 16:33:01
3 Q. And when did you acquire that land? 16:33:07
4 A. 25 years ago. 16:33:09
5 Q. Do you know what the current 16:33:12
6 assessed value of that land is? 16:33:13
7 A. The taxes are \$28, so I don't know 16:33:15
8 what the assessment is. It wasn't one of my 16:33:19
9 best deals. 16:33:26
10 Q. And was that the property at 2921 -- 16:33:30
11 A. No. No. It's a lot in Crystal 16:33:33
12 River, Florida. I don't even know what the 16:33:37
13 address is. 16:33:39
14 Q. Other than the properties that you 16:33:40
15 have already identified, do you own any other 16:33:48
16 properties? 16:33:50
17 A. No. 16:33:50
18 Q. Have you sold any properties that 16:33:51
19 you owned within the last five years? 16:33:58
20 A. Yes. 16:34:01
21 Q. And how many properties have you 16:34:02
22 sold? 16:34:04
23 A. One. 16:34:04
24 Q. Where is that property located? 16:34:04
25 A. In the incorporated Village of Ocean 16:34:06
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1 Loeffler
2 Beach. 16:34:08
3 Q. And what's the address? 16:34:08
4 A. 31 Ocean Road. 16:34:09
5 Q. Are there any other properties that 16:34:15
6 you own that you haven't identified today? 16:34:16
7 A. No. 16:34:18
8 Q. Are there any other properties that 16:34:18
9 you are a part owner of? 16:34:19
10 A. No. 16:34:22
11 Q. Are there any properties that your 16:34:23
12 wife owns in her name? 16:34:27
13 A. Yes. 16:34:29
14 Q. How many such properties? 16:34:31
15 A. I don't know. 16:34:32
16 MR. NOVIKOFF: I think I may stop 16:34:48
17 you talking about his wife's properties 16:34:49
18 unless they are jointly owned. 16:34:52
19 Q. Other than the one boat that you 16:34:59
20 referenced earlier today, do you own any other 16:35:01
21 boats? 16:35:03
22 A. No. 16:35:03
23 Q. Other than the property that you 16:35:04
24 referenced earlier today that the mortgage was 16:35:08
25 secured through Trustee Wingate, have you 16:35:11
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1 Loeffler
2 acquired any other properties through private 16:35:16
3 lenders? 16:35:20
4 A. No. 16:35:20
5 Q. Has the mortgage on the property 16:35:21
6 where the mortgager was Trustee Wingate, has 16:35:30
7 that mortgage been repaid? 16:35:32
8 A. Yes. 16:35:33
9 Q. When was that mortgage repaid? 16:35:34
10 A. Around ten years ago. 16:35:36
11 Q. Do you own any businesses? 16:36:00
12 A. No. 16:36:02
13 MR. GRAFF: If I could ask the court 16:36:07
14 reporter to please mark as Exhibit Loeffler 16:36:12
15 16 a copy of the Complaint in this case. 16:36:14
16 (Loeffler Exhibit 16, Complaint and 16:36:25
17 Jury Demand, marked for identification.) 16:36:25
18 MR. NOVIKOFF: Okay. Do you want 16:36:46
19 him to look at it and see if he recognizes 16:36:47
20 it? 16:36:50
21 MR. GRAFF: Yes. 16:36:50
22 Q. If you could look at it as much as 16:36:50
23 you need to to tell me if this is the document 16:36:52
24 that you recognize as the federal Complaint in 16:36:54
25 this lawsuit that you reviewed. 16:36:56
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1 Loeffler
2 (Document review.) 16:37:02
3 MR. NOVIKOFF: We will stipulate 16:37:12
4 that it's the Complaint. I mean, do you 16:37:12
5 want him to -- 16:37:18
6 A. Do you want me to go through this 16:37:19
7 page by page? 16:37:21
8 MR. NOVIKOFF: If you want to go 16:37:22
9 page by page, he will. I am trying to 16:37:22
10 short -- okay. Go ahead. 16:37:23
11 Q. And as you are flipping, Mayor 16:37:26
12 Loeffler, if you could please let me know if 16:37:28
13 you find the point in the Complaint where it 16:37:29
14 references Mitch Burns. 16:37:32
15 MR. NOVIKOFF: Well, you know what, 16:37:33
16 this is not a hunt and peck process. Why 16:37:34
17 don't you tell him what paragraph to look 16:37:37
18 at, because I gotta tell you, I'd probably 16:37:39
19 take five, ten minutes trying to find Mitch 16:37:41
20 Burns in there. So, you know, again, if 16:37:45
21 there is a paragraph number you want to 16:37:48
22 refer him to, then by all means, do so. 16:37:50
23 MR. GRAFF: There is not. 16:37:50
24 MR. NOVIKOFF: There is not? Does 16:37:52
25 the name Mitch Burns appear in there? 16:37:53
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1 Loeffler
2 MR. GRAFF: Mayor Loeffler indicated 16:37:56
3 that he heard the name. He believed he saw 16:37:57
4 it in the Complaint. 16:37:59
5 MR. NOVIKOFF: Okay, you know what, 16:38:00
6 then look through and see if Mitch Burns 16:38:01
7 appears in the Complaint. He has got seven 16:38:03
8 hours. 16:38:18
9 (Document review.) 16:38:47
10 MR. NOVIKOFF: Ari, I have no 16:38:47
11 problem while the mayor is looking page by 16:38:48
12 page for Mitch Burns' name, but if the end 16:38:50
13 result of this is that the mayor is going 16:38:53
14 to say he was mistaken, that Mitch Burns' 16:38:54
15 name does not appear in the Complaint, 16:38:56
16 where does that get you other than wasting 16:38:58
17 five minutes of time? But it's your 16:39:00
18 deposition. I just... 16:39:03
19 (Document review.) 16:39:22
20 Q. Mayor Loeffler, rather than taking 16:39:27
21 the time now, why don't we mark the transcript 16:39:29
22 and if on your review of the transcript you do 16:39:31
23 remember where you saw the name Mitch Burns, 16:39:36
24 you can just fill it in there. 16:39:38
25 A. So what does that mean? 16:39:40
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1 Loeffler
2 MR. NOVIKOFF: That means you don't 16:39:41
3 have to read any more of the Complaint. 16:39:43
4 TO BE FURNISHED: 16:39:44
5 Q. If I could turn, please, to 16:39:44
6 paragraph 60 of the Complaint. 16:39:46
7 MR. NOVIKOFF: Okay. Is there 16:39:58
8 anything you would like the mayor to do 16:39:59
9 with paragraph 60? 16:40:01
10 MR. GRAFF: If he could read it, 16:40:02
11 please. 16:40:03
12 MR. NOVIKOFF: Read the whole 16:40:03
13 paragraph to himself? Okay. 16:40:04
14 MR. GRAFF: Yes. 16:40:05
15 MR. NOVIKOFF: Sure. 16:40:06
16 (Document review.) 16:40:21
17 A. Okay. 16:40:46
18 Q. Did you discuss the allegations in 16:40:47
19 paragraph 60 of the Complaint with anyone other 16:40:50
20 than counsel? 16:40:52
21 A. I don't remember that, reading that, 16:40:53
22 but -- 16:40:56
23 MR. NOVIKOFF: So that's your 16:40:57
24 answer. 16:40:58
25 Q. After reading that do you recall 16:40:59
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1 Loeffler
2 whether other than in the context of this 16:41:02
3 Complaint you have any information concerning 16:41:04
4 any of the allegations set forth in paragraph 16:41:06
5 60? 16:41:08
6 MR. NOVIKOFF: Whoa, counselor, 16:41:08
7 there is a lot going on in paragraph 60. 16:41:11
8 You got paragraph 60 saying that Fiorillo 16:41:13
9 was en route to the police station. So 16:41:16
10 that's one issue. And that Fiorillo 16:41:18
11 observed Bosetti drinking. That's another 16:41:20
12 issue. That then Bosetti approaching -- I 16:41:22
13 mean, you have 25 issues in paragraph 60 16:41:24
14 that you are asking this witness to opine 16:41:27
15 about. 16:41:29
16 Q. Let me -- 16:41:29
17 MR. NOVIKOFF: Be more specific. 16:41:31
18 Q. Do you have any information 16:41:32
19 concerning the incident involving a cabinet 16:41:34
20 thrown into the Great South Bay that's alleged 16:41:38
21 in this paragraph? 16:41:40
22 A. I do not have any information with 16:41:41
23 reference to this incident. 16:41:43
24 Q. If you could turn, please, to page 16:41:44
25 16, paragraph 63. 16:41:49
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1 Loeffler
2 could possibly have been referred to in 16:42:34
3 these eight, nine paragraphs with anyone 16:42:37
4 other than counsel? If that's what you 16:42:38
5 want him to do, I will provide -- fine. 16:42:41
6 Read 63 through 70 and then I will ask the 16:42:44
7 court reporter to repeat the question so 16:42:47
8 it's absolutely clear and in case I need to 16:42:48
9 make an objection. 16:42:52
10 THE WITNESS: Do you want me to read 16:42:52
11 it out loud? 16:42:52
12 MR. NOVIKOFF: No, to yourself. 16:43:09
13 (Document review.) 16:43:09
14 MR. NOVIKOFF: Once you have read 16:43:27
15 it, tell me when you are done. 16:43:28
16 (Document review.) 16:43:28
17 MR. NOVIKOFF: Okay. Stop. You 16:44:49
18 want him to just read up to paragraph 70; 16:44:50
19 right? 16:44:53
20 MR. GRAFF: Yes. 16:44:53
21 MR. NOVIKOFF: Okay, now, can the 16:44:53
22 court reporter please read the question 16:44:55
23 that Mr. Graff is asking the witness. 16:44:56
24 (Record read.) 16:45:09
25 MR. NOVIKOFF: I am going to object 16:45:11
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1 Loeffler
2 MR. NOVIKOFF: Would you like the 16:41:55
3 witness to read paragraph 63 to himself? 16:41:56
4 MR. GRAFF: Let me first ask the 16:41:59
5 question and then he can read as much as he 16:42:00
6 needs to to answer it. 16:42:02
7 MR. NOVIKOFF: Okay. 16:42:02
8 Q. The allegations under the subheading 16:42:03
9 The Halloween Incident run from paragraph 63 16:42:05
10 and end before the next subheading in 16:42:08
11 paragraph 70. 16:42:10
12 MR. NOVIKOFF: I will stipulate to 16:42:11
13 that. 16:42:12
14 Q. My question is whether, Mayor 16:42:13
15 Loeffler, you discussed any of the allegations 16:42:15
16 in these paragraphs with anyone other than 16:42:16
17 counsel? 16:42:18
18 MR. NOVIKOFF: You know -- okay. 16:42:18
19 You are talking -- you are asking the 16:42:22
20 witness without even reading -- 16:42:24
21 MR. GRAFF: No. 16:42:24
22 MR. NOVIKOFF: -- the paragraph. So 16:42:26
23 you want him now to read 63 through 70 and 16:42:26
24 then ask the question whether or not he 16:42:29
25 read -- he had discussed any issues that 16:42:31
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1 Loeffler
2 to the form, because there are a number of 16:45:12
3 allegations in all of these and I will go 16:45:16
4 sentence by sentence then. 16:45:19
5 Q. Were there any sentences in these 16:45:21
6 paragraphs that you can recall specifically 16:45:23
7 discussing with anyone? 16:45:25
8 A. Yes, one. 16:45:26
9 Q. Which sentence? 16:45:28
10 A. Paragraph 69, Defendant Loeffler, 16:45:29
11 then serving in his capacity as Village board 16:45:40
12 member, and I don't know what official police 16:45:43
13 liaison is, was present in the station house 16:45:44
14 and said that he believed the injuries to 16:45:47
15 Vankoot constituted assault in the second 16:45:52
16 degree with a dangerous instrument. I already 16:45:56
17 testified that that's exactly what I said. 16:45:59
18 Q. And did you discuss that statement 16:46:00
19 with anyone other than your counsel? 16:46:02
20 A. No. Well, I did with you. 16:46:03
21 Q. Thank you. And have you ever heard 16:46:05
22 the term in any of your law enforcement 16:46:09
23 positions "official police liaison"? 16:46:11
24 A. No. 16:46:14
25 Q. Is the first time you encountered 16:46:14
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1 Loeffler
2 that term in this Complaint? 16:46:18
3 A. Yes. 16:46:19
4 Q. Mayor Loeffler, I know this is a 16:46:30
5 sensitive topic and I don't want to keep 16:46:32
6 returning to it, but very briefly, did Dale or 16:46:34
7 Doug Wykoff Senior ever indicate to you that 16:46:39
8 they blamed Ed Paradiso in any way for the 16:46:41
9 death of their son? 16:46:44
10 MR. NOVIKOFF: No. Ari, I mean, 16:46:45
11 what possible relevance -- and I don't even 16:46:51
12 know what the answer is, but what possible 16:46:54
13 relevance could that have to this lawsuit 16:46:56
14 about apparently Mr. Wykoff's son -- 16:47:00
15 THE WITNESS: Committed suicide. 16:47:03
16 MR. NOVIKOFF: -- committed suicide? 16:47:03
17 MR. GRAFF: Could I perhaps just 16:47:05
18 speak to you off the record privately? 16:47:06
19 MR. NOVIKOFF: Sure, I would be 16:47:07
20 happy to. 16:47:08
21 THE VIDEOGRAPHER: Going off the 16:47:09
22 record. The time is 4:47 p.m. 16:47:10
23 (Recess was taken from 4:47 to 16:47:13
24 4:57.) 16:47:13
25 THE VIDEOGRAPHER: We are back on 16:56:39
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1 Loeffler
2 the record. The time is 4:57 p.m. 16:56:44
3 MR. GRAFF: Could the court reporter 16:56:50
4 please read back my last question to the 16:56:51
5 witness. 16:56:53
6 (Record read.) 16:57:18
7 A. No. 16:57:20
8 Q. Mayor Loeffler, do you know whether 16:57:35
9 Mike Loeffler was in the company of Doug Wykoff 16:57:36
10 Junior on the night that he passed away? 16:57:39
11 A. I don't know that. I don't know 16:57:42
12 whether he was or not. They are cousins, you 16:57:49
13 know. He is related to me, Douglas. 16:57:51
14 Q. I didn't know that. What's the 16:57:53
15 relation? 16:57:54
16 A. It's kind of involved, but Dale's -- 16:57:55
17 Dale's mother and Doug's -- Dale's mother 16:58:00
18 and -- Dale's mother was sister to my 16:58:08
19 brother-in-law's who married my -- it gets very 16:58:10
20 involved, but they are second cousins, Doug and 16:58:15
21 my son. 16:58:18
22 Q. But you don't know if he was 16:58:21
23 specifically with his company in -- 16:58:23
24 A. I don't know that. 16:58:24
25 Q. Do you know whether Mike Loeffler 16:58:25
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1 Loeffler
2 had consumed drugs or narcotics on the night of 16:58:36
3 Doug Junior's death? 16:58:41
4 A. I don't know that. 16:58:42
5 Q. Did you ever have any conversations 16:58:43
6 with anyone at Ocean Beach Police Department 16:58:49
7 concerning that subject? 16:58:51
8 A. No, I did not. That investigation 16:58:53
9 was handled by the Suffolk County Homicide 16:58:57
10 Division, Doug's death. 16:58:59
11 Q. And were you ever a part of that 16:59:02
12 division as the Suffolk County detective? 16:59:03
13 A. Yes, I was. 16:59:07
14 Q. Were you involved at all in that 16:59:07
15 investigation? 16:59:09
16 A. No, I was not. 16:59:10
17 Q. Mayor Loeffler, prior to your 16:59:36
18 election as mayor, did you ever state to anyone 16:59:37
19 in substance that you intended to terminate 16:59:42
20 either of the Bosettis' employment as police 16:59:46
21 officers in the event that you were elected 16:59:49
22 mayor? 16:59:50
23 A. No, I did not. 16:59:50
24 Q. Do you know whether the Suffolk 16:59:56
25 County Police Department has jurisdiction over 16:59:59
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1 Loeffler
2 to enforce law in the Incorporated Village of 17:00:08
3 Ocean Beach? 17:00:10
4 A. They have concurrent jurisdiction, 17:00:11
5 yes, they do. 17:00:13
6 Q. And in practice do they ever carry 17:00:14
7 out law enforcement activities that you are 17:00:16
8 aware of in Ocean Beach? 17:00:18
9 A. Some investigative activities, but 17:00:19
10 not day-to-day law enforcement activities. 17:00:21
11 Q. As a Suffolk County detective have 17:00:23
12 you ever carried out any of your duties within 17:00:25
13 the territory of the Incorporated Village -- 17:00:28
14 A. I was not -- I was not assigned to 17:00:31
15 the precinct that handles that jurisdiction. 17:00:32
16 Q. What precinct were you assigned to? 17:00:35
17 A. The first precinct. 17:00:36
18 Q. And have you been assigned to the 17:00:37
19 first precinct -- 17:00:39
20 A. As a detective for 19 years. 17:00:41
21 Q. And that would be throughout your 17:00:43
22 service as mayor and police commissioner? 17:00:45
23 A. Yes. 17:00:47
24 MR. GRAFF: Mayor Loeffler, thank 17:00:54
25 you very much for your time and answering 17:00:56
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1 Loeffler
2 my questions today. I am concluded for 17:00:57
3 today, although I would note that we would 17:01:00
4 reserve our right to reopen, if necessary, 17:01:03
5 upon production of the financial 17:01:07
6 statements. 17:01:10
7 MR. NOVIKOFF: I don't know if I 17:01:11
8 necessarily agree with that, but you have 17:01:13
9 stated your position on the record. Okay. 17:01:15
10 MR. GRAFF: Does anyone have cross? 17:01:17
11 MR. NOVIKOFF: No. Kevin? 17:01:20
12 MR. CONNOLLY: No. 17:01:20
13 MR. GRAFF: Thank you. 17:01:22
14 THE VIDEOGRAPHER: We are now going 17:01:22
15 off the record. The time is 5:01 p.m. 17:01:24
16 This is the end of the tape labeled 17:01:27
17 number 5 to this videotaped deposition. 17:01:28
18 (Time noted: 5:01 p.m.) 17:01:32
19 17:01:32
20 -----
21 JOSEPH C. LOEFFLER, JR.
22
23 Subscribed and sworn to before me
24 this day of 2009.
25 -----

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1
2 CERTIFICATE
3
4 STATE OF NEW YORK)
5) ss.:
6 COUNTY OF NASSAU)
7
8 I, KRISTIN KOCH, a Notary Public within
9 and for the State of New York, do hereby
10 certify:
11 That JOSEPH C. LOEFFLER, JR., the
12 witness whose deposition is hereinbefore
13 set forth, was duly sworn by me and that
14 such deposition is a true record of the
15 testimony given by such witness.
16 I further certify that I am not
17 related to any of the parties to this
18 action by blood or marriage; and that I am
19 in no way interested in the outcome of this
20 matter.
21 IN WITNESS WHEREOF, I have hereunto
22 set my hand this 9th day of March, 2009.
23 -----
24 KRISTIN KOCH, RPR, RMR, CRR, CLR
25

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1
2 ERRATA SHEET FOR THE TRANSCRIPT OF:
3 Case Name: Carter v. Ocean Beach
4 Dep. Date: February 25, 2009
5 Deponent: Joseph C. Loeffler, Jr.
6 CORRECTIONS:
7 Pg. Ln. Now Reads Should Read Reason
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18
19
20 _____
21 Signature of Deponent
22 SUBSCRIBED AND SWORN BEFORE ME
23 THIS ____ DAY OF _____, 2009.
24
25 _____

(Notary Public) MY COMMISSION EXPIRES: _____
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